

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	19-CR-00576(BMC)
	:	
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
	:	February 2, 2023
GENARO GARCIA LUNA,	:	9:30 a.m.
	:	
Defendant.	:	

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TRANSCRIPT OF CRIMINAL CAUSE ON TRIAL
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES SENIOR DISTRICT JUDGE, and a jury

A P P E A R A N C E S:

For the Government: BREON PEACE
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: SARITHA KOMATIREDDY
ERIN M. REID
PHILIP PILMAR
MARIETOU E. DIOUF
Assistant United States Attorneys

For the Defendant: BY: CESAR DE CASTRO, ESQ.
SHANNON MICHAEL MCMANUS, ESQ.
VALERIE GOTLIB, ESQ.
FLORIAN MIEDEL, ESQ.
SHANNON MCMANUS, ESQ.

Court Reporter: Michele D. Lucchese, RPR, CRR
718-613-2272
E-mail: MLuccheseEDNY@gmail.com

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Poveda-Ortega - cross - de Castro

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1 (In open court; jury not present.)

2 (Defendant Present.)

3 THE COURTROOM DEPUTY: All rise. The Honorable
4 Brian Cogan now presiding.

5 THE COURT: Okay. Let's have the witness back,
6 please.

7 Let's hold the jury just a moment, please.

8 (Witness takes the stand.)

9 (Jury enters.)

10 THE COURT: Good morning, ladies and gentlemen.

11 THE JURY: Good morning.

12 THE COURT: Everyone be seated, please.

13 Mr. de Castro, we're continuing cross-examination.

14 MR. DE CASTRO: Thank you, Judge.

15 **HAROLD MAURICIO POVEDA-ORTEGA,**

16 called as a witness, having been previously duly

17 sworn/affirmed, was examined and testified as follows:

18 CROSS-EXAMINATION

19 BY MR. DE CASTRO: (Continuing)

20 Q Can you hear me. Okay?

21 A Yes, sir.

22 Good morning.

23 Q Good morning.

24 At the end of the day yesterday, we talked about
25 your profits from narcotic trafficking. Remember that?

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1 A Yes, sir.

2 Q And based on your plea to 1 million kilos of trafficked
3 cocaine to the United States, you agreed that you made
4 somewhere between \$300 and \$400 million from that trafficking?

5 A Yes, sir. That's right.

6 Q And you testified that your lawyer was able to negotiate
7 an agreement with the Government that you only had to pay \$1
8 million in forfeiture?

9 A That's correct.

10 Q And even though your cooperation agreement requires that
11 you pay your \$1 million after your sentencing, you've already
12 paid it?

13 A Yes, I already paid it.

14 Q And would you agree with me that that \$1 million was not
15 even one percent of your profits?

16 A Well, of course.

17 Q Did you also traffic drugs to Europe, as well?

18 A No.

19 Q Did you traffic drugs anywhere else other than the United
20 States?

21 A No. Mexico. United States.

22 Q Now, yesterday we saw your home that the Government
23 showed everybody on Government Exhibit 436.

24 Do you remember that?

25 A Yes, sir.

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1 Q Would you agree that that was one of your largest homes?

2 A I had bigger houses than that one.

3 Q So -- but this one had its own private zoo; right?

4 A I also had a ranch that had other animals.

5 Q What --

6 THE INTERPRETER: Interpreter correction.

7 That had more animals.

8 Q What other types of animals did you have at your ranch?

9 A I had giraffes, pumas, hippopotami, kangaroos, deer. I
10 had more than 150 horses. I had feed cattle.

11 Q Now, the house we looked at yesterday, that was about,
12 what, 45 minutes to an hour from Mexico City?

13 A No. That house is inside of Mexico City. No, no, it's
14 inside of Mexico City, in an area called the Desierto de los
15 Leones.

16 Q Well, it was near a national park; right?

17 A Yes, it's a park.

18 Q And it had views of Mexico City; right? You could see
19 all the buildings?

20 A Yes, of course. It had a spectacular view.

21 Q But that was in the distance; right? So you could see
22 the whole city; right?

23 A Yes.

24 Q And almost everything about that house was custom-made;
25 correct?

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1 A Yes. Yes, it was made. It was handmade. Strange ideas.

2 THE COURT: Mr. de Castro.

3 MR. DE CASTRO: I'm sorry. Yes.

4 THE COURT: Are we getting a little away from
5 things?

6 MR. DE CASTRO: I have like four questions, Judge.

7 THE COURT: Okay.

8 Q And the press got ahold of it and called it fantasy
9 mansion; right?

10 A Yes. It was the press that gave it that name.

11 Q How many rooms did the house have?

12 A That house had three bedrooms.

13 Q How many rooms in total did the house have? Not bedrooms
14 only.

15 A Rooms? Three rooms.

16 Q Was there a living room?

17 A Oh, okay. It had a game room, a discotheque, a grotto,
18 gardens, pool; a gazebo, like we could see yesterday.

19 Q And how long did it take you to construct that house?

20 A Well, no. I mean, it wasn't easy. About three, four,
21 five years. Little by little as I had ideas, I had them made.

22 Q And how much did that entire project cost you?

23 A That project, as you could see, there was a lot of handy
24 work there; 6, \$7 million.

25 Q U.S. dollars; right?

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1 A That's right.

2 Q Now, on direction examination you discussed the alleged
3 kidnappings of Mr. Garcia Luna; right?

4 A Yes.

5 Q And you testified that you were at Mr. Beltran Leyva's
6 house one day with someone named Marteen; right?

7 A That's right.

8 Q And then Mr. Arturo -- excuse me. Withdrawn.

9 Then Mr. Beltran Leyva received a phone call; right?

10 A No.

11 Q He received a notification over his phone somehow?

12 A No. At the time when I met with him, was there, he said
13 to me, well, he -- well, he was upset. He looked different to
14 me, and that's when he told me that they had picked up Garcia
15 Luna. That's what I told you yesterday.

16 Q So no phone call?

17 A Later, obviously, the phone rang. He was always on the
18 phone. He had 10 -- more than 10. 15 phones on the table.

19 Q So it's your testimony that he did not get a phone call
20 and someone told him about the kidnappings?

21 A When I got there, he already knew that that was happening
22 or going to happen with him, I mean, there was -- no, no. He
23 told me. It's not that I heard anybody tell him that.

24 Q You met -- you've met with the Government over the years
25 more than 50 times; right?

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1 A Many more.

2 Q But in May -- do you remember meeting with the Government
3 in May, on May 11th and May 12th of this year? About eight
4 months ago.

5 THE COURT: Last year.

6 Q I'm sorry. Last year.

7 MR. DE CASTRO: Thanks, Judge.

8 A I don't remember dates. No, no. I don't remember dates
9 exactly of any meeting.

10 Q Okay, I'll see if I can refreshes your recollection on
11 that. Let me ask this question to make it faster: Do you
12 remember telling the Government that during a meeting with Mr.
13 Beltran Leyva in Cuernavaca, he received a call in which the
14 caller explained that they kidnapped Mr. Garcia Luna and were
15 taking him to a safe house?

16 Do you remember telling the Government that?

17 A Yes.

18 Q So to be clear, you do remember telling the Government
19 that Mr. Beltran Leyva received a call and was being informed
20 that they had just kidnapped Mr. Garcia Luna?

21 A Well, we had many meetings. And in those meetings, I
22 always said -- I always said that Arturo had told me that day
23 that I went to go see Arturo that day that they had told me
24 that they had kidnapped Garcia Luna or they had just done it
25 or were about to do it.

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1 Q You understood that what was happening was sort of
2 happening in realtime, right then; right?

3 A Yes. It was when I got there, he told me. I didn't know
4 anything until he told me.

5 And, yeah, he was receiving calls. He was on the
6 phone. And that's the reason why I didn't stay long. I went
7 back to Mexico City.

8 Q And you understood that his team was calling him for
9 further instructions after kidnappings Mr. Garcia Luna; right?

10 If you can answer yes or no, just yes or no.

11 A Yes.

12 Q And the team wanted to know what to do next; right?

13 A . I imagine that they were receiving orders from him,
14 yes.

15 Q And that's what prompted his conversation with you about
16 were to kill him or not; right? Isn't that what you said
17 yesterday?

18 Just yes or no.

19 A He said he was going to kill Garcia Luna; he was going to
20 cut his head off.

21 Yes.

22 Q Now, you were arrested in November of 2010 in Mexico;
23 right?

24 A November?

25 Q Yes, I think so.

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1 A Yes. Yes.

2 Q More or less. I'm not trying to give you a specific
3 date. Okay?

4 A No, no. That's okay.

5 Q And, yes or no, you were detained there for some time;
6 right?

7 A For a good long while.

8 Q And you were in a federal prison at some point in Mexico;
9 right?

10 A No, no, it wasn't a federal prison.

11 Q Was it a State prison?

12 A Yes, it was low -- a level prison. It wasn't called
13 state prisons. It was called the Norte Institution.

14 Q At that time Mr. Garcia Luna was the Secretary of Public
15 Security; right?

16 A Yes.

17 Q And you didn't escape from prison; right?

18 A No.

19 Q And you were extradited to the United States in or around
20 2012; right?

21 A That's correct.

22 Q And then you learned the specifics of the charges you had
23 against you hear in the United States; right?

24 A Yes, sir.

25 Q And you learned that you had three cases to deal with;

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1 right?

2 A That is correct.

3 Q You had a Washington, D.C. case for importation where you
4 were facing 20 years to life in prison; right?

5 A The Washington one?

6 Q Yes.

7 A Yes.

8 Q And you had an Eastern District of New York -- that's
9 here, Brooklyn -- where you were facing the charge of a
10 continuing criminal enterprise, and you were facing 20 years
11 to life on that one as well?

12 A No, I was facing life to life.

13 Q That's right. A life sentence; right?

14 A Yes, sir.

15 Q And then on the Texas case -- withdrawn.

16 Then you also had a Texas case for which you were
17 facing ten years to life for importation; right?

18 A That is correct.

19 Q And, so, you were facing just a life sentence, right,
20 with no parole?

21 A That is correct.

22 Q And then later they added bribery here in this district;
23 correct?

24 A Yes. They added -- they added -- well, I plead guilty to
25 bribery, One count of bribery. Bribery.

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1 Q And that was for giving 5 to \$6,000 to a guard in jail
2 for extra privileges?

3 A 5 to \$6,000.

4 Q Right.

5 A Yes, sir.

6 Q And that could be a consecutive two years maximum; right?

7 A According to my lawyer, that resulted in six months to 12
8 months. I don't know.

9 Q That was sort of a recommended sentence under the
10 guidelines for that new charge, which would be 6 to 12 months;
11 right?

12 A Yes, sir.

13 Q Okay. So facing a life sentence, fair to say that you
14 quickly realized that the only way you were not going to die
15 in prison was to cooperate with the United States Government?

16 A I don't know.

17 Yesterday, I said that I became a protected witness
18 right after I was arrested in Mexico, and I agreed to
19 cooperate with the U.S. authorities in Mexico.

20 Q Yes or no?

21 You knew that the only way that you would not get a
22 life sentence here in the United States was to cooperate?

23 A Yes, sir.

24 Q And that meant meeting with prosecutors from the United
25 States Government, like the prosecutors here at the table in

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1 front of us?

2 A Yes, sir.

3 Q And you met with them more than 50 times; right?

4 A I think many more.

5 Q Well, to be fair, my count is 53.

6 Does that sound about right?

7 A Well, okay.

8 Q They were very long meetings, some of them; right?

9 A Well, almost all of them.

10 Q And so eventually, after many of these meetings, they
11 offered you a cooperation agreement that covered all three of
12 your cases?

13 A That is correct.

14 MR. DE CASTRO: Can I show just the witness HM-P0-5.

15 MR. PILMAR: We have no objection if you want to
16 move it into evidence.

17 MR. DE CASTRO: Judge, it is marked HM-P0-5. We
18 will make it Defense 1, I guess.

19 THE COURT: Okay.

20 (Defense Exhibit 1 received in evidence.)

21 Q Can you see that on your screen?

22 A This is all in English.

23 Q I know. You can -- can you see it on the screen?

24 A Yes.

25 Q And this agreement, you see it has your name on it,

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1 right, Harold Mauricio Poveda-Ortega? It's on the first page.

2 A Yes, sir.

3 MR. DE CASTRO: Ms. Gotlib, don't scroll so fast.

4 We are all going to fall down.

5 Q At the bottom, is that your signature at the bottom?

6 A That is my signature, correct.

7 Q And this agreement is in English, but your counsel made
8 sure to go over this with you in Spanish; right?

9 A Yes. He himself translated it for me; he explained it to
10 me.

11 Q And you certainly knew what you were signing; right?

12 A Yes, of course.

13 Q So let's just go through this just part by part.

14 So there it says "United States" and there's your
15 name; right?

16 A That's correct.

17 Q And it says "Cooperation Agreement"?

18 And it lies out next very clearly the three cases.
19 So first you see the Eastern District of New York indictment.

20 A Yes, sir.

21 Q And subsection A says, "Maximum term of imprisonment:
22 Life"?

23 A That's correct.

24 Q Then on the next page, it says, "Other penalties:
25 Deportation/removal."

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1 Do you see that?

2 A Yes, sir.

3 Q Then the next section is the Washington, D.C. indictment;
4 right?

5 A Yes, sir.

6 Q And there you see it says, "International cocaine
7 distribution conspiracy: Minimum, 10; maximum, life"?

8 A Yes, sir.

9 Q And, again, under that section, it says, "Other
10 penalties: Deportation or removal"; right?

11 A Yes, sir.

12 Q And the Northern District of Texas indictment also a
13 conspiracy to import cocaine. And that's ten to life; right?

14 A That is correct.

15 Q And, again, other penalties: Deportation and removal?

16 A Yes, sir.

17 Q And then, before paragraph 4, it says that those
18 sentences may run consecutively; right?

19 A Yes, sir.

20 Q Then go to the next page, page 5. Right before paragraph
21 5, that's the part that says you agreed that your sentence
22 would be based upon a drug type and quantity of at least 1
23 million kilos, kilograms of cocaine?

24 A Yes, sir.

25 Q Now, the next part of the agreement talks about your

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1 obligation to cooperate. Okay?

2 And paragraph 5, the first sentence reads, "The
3 defendant will provide truthful, complete, and accurate
4 information and will cooperate fully with the Office," which
5 means the United States Attorney's Office; right?

6 A Yes, sir.

7 Q And under subsection A, it says you agree to attend all
8 meetings; right?

9 A Yes, sir.

10 Q And then under B -- well, "and provide information" and
11 then under B "to furnish to the Office all documents that may
12 be relevant to the investigation."

13 A Yes, sir.

14 Q Now, paragraph 8 talks about if you don't provide --
15 withdrawn.

16 Paragraph 8 talks about determining whether you have
17 cooperated fully, and the Government's obligation to give you
18 that 5K1 letter if do you.

19 A Yes, sir.

20 Q Now, paragraph 8 says that if the Office -- that is the
21 prosecutors -- determine that you have cooperated fully,
22 provided substantial assistance to law enforcement, and
23 otherwise complied with the terms of the agreement, they will
24 give you a 5K1.1 letter; correct?

25 A Yes, sir.

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1 Q And what that paragraph says explicitly is that the
2 prosecutors, meaning these people sitting here, will determine
3 if you were truthful or not; correct?

4 A Yes, sir.

5 Q And that's what you understand; correct?

6 A Yes, sir.

7 Q It's not for a judge to decide whether you're truthful;
8 it is for the Government to decide in order to make their
9 decision as to whether to write a letter for you?

10 A That is correct.

11 Q Now, paragraph 10 talks about the Government being
12 released from its obligations under this contract to give you
13 that letter; right?

14 A That's correct.

15 Q And it says, "Should it be judged by the Office" -- that
16 is the prosecutors -- "that the defendant has failed to
17 cooperate fully, has intentionally given false, misleading, or
18 incomplete information or testimony, has committed or
19 attempted to commit any further crimes," you don't get out of
20 the agreement, but they're out of the agreement to write you a
21 5K letter.

22 THE INTERPRETER: Sorry, Counselor. Could the
23 interpreter have the end of the question.

24 MR. DE CASTRO: I think we have to read that one
25 back. Actually, I can do it again.

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1 Q This paragraph, paragraph 10 of the agreement, says that
2 if the Government decides you have provided incomplete or
3 false testimony, they are released from the agreement to
4 provide you with a 5K letter?

5 A That is correct.

6 Q And at the end of the paragraph, it says -- and worse
7 than that, they can prosecute you for perjury and obstruction
8 of justice; right?

9 A Yes, sir.

10 Q And even worse than that, is if they rip up this
11 agreement, you're back to facing life in prison again?

12 A Of course.

13 Q And even worse than that, you've already pled guilty to
14 the crimes?

15 A That's right.

16 Q So paragraph 12 is just where it talks about how you've
17 consented to forfeit \$1 million; right?

18 A Yes, I already turned it over.

19 Q Paragraph 19, that says you understand that you could
20 have immigration consequences by pleading guilty; right?

21 A That's right.

22 Q And paragraph 21 says if the defendant requests, and in
23 the Office's judgment the request is reasonable, they will
24 recommend to the Department of Justice that you -- and if
25 appropriate, other individuals -- be issued an S visa

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1 classification?

2 A That's right.

3 Q Now, you breached this agreement, didn't you?

4 A What?

5 Q You're not allowed to commit other crimes while being a
6 cooperator; are you?

7 A No.

8 Q And you did commit another crime, the crime of bribery;
9 right?

10 A That's right.

11 Q And they did not rip up your agreement?

12 A No.

13 Q In fact, they then consented to your release on bail;
14 right?

15 A That's right.

16 Q You've been out of prison since June of 2019; right?

17 A That's right.

18 Q You have been waiting sentencing for more than two years?

19 A Yes, that's right.

20 I'm in home confinement this time waiting.

21 Q You're at home; right?

22 A Thank God, yes.

23 Q And you're permitted to live here in the United States
24 while a waiting for your sentencing?

25 A Yes, sir.

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1 Q And have you received that visa yet?

2 A No.

3 Q And has anyone in your family received visas?

4 You don't have to say who. I'm just saying anyone
5 in your family.

6 A Yes.

7 Q And they've also obtained work visas too; right?

8 A Work permits.

9 Q And that's three members of your family; right?

10 A Two.

11 Q And so you're not sure when your sentencing is going to
12 be; right?

13 A Yes, I don't know.

14 Q But when you do have it, you want to make sure that you
15 get credit for testifying here today; right?

16 A Yes.

17 Q And at the time of your sentencing, you would have served
18 in an actual prison, or prisons, a little over nine years in
19 jail; right?

20 A That's right.

21 Q And your lawyer, as you understand it, will be arguing
22 for a time served sentence; right?

23 A Well, I hope so.

24 Q And the Government will not be arguing for any particular
25 sentence; right?

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1 A I don't think so.

2 Q And you're hoping they write a really good 5K letter for
3 you; right?

4 A That's right.

5 Q And sitting here today, you would agree with me that
6 you're confident that you will likely receive time served?

7 A I hope to God that is so.

8 Q Now, before you were released and while you were in jail,
9 did you see any of your old cartel friends and colleagues?

10 A A lot of them.

11 Q You saw a lot of your old cartel friends and colleagues
12 in jail; right?

13 A Yes, sir.

14 Q And you even saw Rey Zambada; right?

15 A Rey Zambada, yes, I did run into him one day.

16 Q There is a lot of waiting around when you're in prison;
17 right?

18 A Yes.

19 Q And so like just coming to court, they will transport to
20 you a cell, and you just sit in the cell with other people
21 going to court; right?

22 A That's right.

23 Q There's no TVs; right?

24 A There's nothing.

25 Q Absolutely nothing, but to talk to the people that are

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1 there?

2 A That's right.

3 Q And everything seems to take even longer because -- for
4 whatever reason, in the jail; right?

5 A Yes, time takes longer.

6 Q And it's in that context that you saw Rey Zambada, and
7 separately you saw El Grande, too?

8 A Yes, but I never saw Rey Zambada in a cell.

9 Q You were a van together; right?

10 A Yes, in a van for about 20 minutes.

11 Q Happy to see each other?

12 A Well, not so much me.

13 Actually, I called him out for having done that to
14 me.

15 Q What's that?

16 A That he had done -- that he, well, the operation at my
17 house at the Desierto de los Leones with the federal police.

18 Q But you were on that van together and you made up; right?
19 You guys squashed your problem?

20 A Yeah. He told me not to worry. He said that everything
21 had ended and that nothing was going on. This was in
22 Washington.

23 Q That everything was all good, and he was even going to
24 send you a music CD; right?

25 A Yes, yes. That he had turned into a composer in jail,

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1 and he was going to send me a few discs.

2 Q And your contact with El Grande, that was in a cell;
3 right?

4 A Yes. That was cell to cell, but far away from each
5 other.

6 Q Now, going back while you were on the outside, you
7 testified on direction examination that you had committed a
8 lot of crimes; right?

9 A Yes, sir.

10 Q And would you say that all were generally related to your
11 activities in the cartel?

12 A Yes, sir.

13 Q And some of those crimes involved using false identities;
14 right?

15 A Yes.

16 Q You had numerous fake identifications; right?

17 A Yes.

18 Q How many different names did you go by or travel by?

19 A Many. I hardly ever traveled, but I did use several
20 names.

21 Q Let me ask you: In your career, have you used more than
22 10 different names?

23 A No, not more than 10.

24 Q Okay. So more than five?

25 A Yes.

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1 Q And you had also many false passports; right?

2 A Well, those are the IDs.

3 Q So, okay. IDs, like a false passport from Guatemala;
4 right?

5 A From Guatemala, Venezuela, Colombia, Mexico.

6 Q And you even purchased United States visas, fake U.S.
7 visas for you and your family; right?

8 A False ones, no; they were authentic.

9 Q And, I'm sorry. Go ahead, did I interrupt? No?

10 You bought real U.S. visas, but that's not normally
11 the process; right?

12 A Yeah. No. They were at the U.S. Consulate in Mexico.

13 Q Ironically, through your cooperation, you have gotten
14 your family real visas now?

15 A Well, we talked about this earlier. We said that two
16 people had helped me to get over here.

17 Q But -- and every time you used a fake passport or a false
18 identity, you were lying; right?

19 A Well, yeah, they were false.

20 Q So you did that for many, many days of your life when you
21 were working in the cartel?

22 A Yes.

23 Q Lying was a normal and necessary part of being a member
24 of the cartel?

25 A Yeah, we all had false IDs. That was normal.

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1 Q And while it might be uncomfortable the first couple
2 times, it gets much, much easier over time to lie?

3 A No, no, not necessarily.

4 Q Well, you almost don't even have to think about it, you
5 just pull out whatever false passport you feel like using;
6 right?

7 A At the moment that it's asked for, yes.

8 Q It gets easier over time, right, just keep using
9 different names and identities; right?

10 A Yes. And even more so knowing that you have arrangements
11 made with the police; it makes it easier.

12 Q Easier to lie? Withdrawn. Withdrawn.

13 THE COURT: Yes, let's move on, Mr. de Castro.

14 Q You don't consider yourself a violent man; right?

15 A Well, not as much as the others, those others.

16 Q You never actually killed somebody with your bear hands;
17 right?

18 A Never ever.

19 Q But you've certainly been a part of a lot of violence;
20 right?

21 A Well, yes, I worked in drug trafficking for 17 years.
22 There was a lot of violence.

23 Q Did you work as a sicario for the Espinal brothers?

24 A Oh, gosh, no, never. I don't even know how to handle
25 weapons.

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1 Q Like you said, violence was part of the cartel, it's part
2 of job?

3 A Yes, sir.

4 Q And like lying, it just gets easier over time; right?

5 A Yes.

6 Q And, so, you ordered a number of people killed in your
7 career in the cartel?

8 A Yes.

9 Q For example, you ordered the murders of Gustavo Escobar
10 and Diego Fernando Rivas Hoyos?

11 A Rivas. Diego Fernando Rivas.

12 Q Yes. In Acapulco; right?

13 A Yes. Yes. And we talked about that yesterday.

14 Q You ordered it and they were killed?

15 A Yes. As I said yesterday, I asked Arturo Beltran Leyva
16 for the favor and Arturo sent some people.

17 Q You order the murder of Raul from Colombia because you
18 learned that he was planning to kill your mother; right?

19 A Not kill her. Kidnap her. He was putting together a
20 kidnapping.

21 Q And you paid \$15,000 to have him kidnapped?

22 A No, for him to be killed.

23 Q And was he killed?

24 A Yes. Yiyos killed him.

25 Q And you had two of Varela's workers killed; right?

Poveda-Ortega - cross - de Castro

920

1 A In Acapulco. Those were the same people we discussed
2 about Acapulco.

3 Q And at that time Varela wanted you dead; right?

4 Just yes or no, please.

5 A Well, it's exactly -- yes.

6 Q And these two workers of Varela's were looking at you
7 strangely and you thought you were in danger; right?

8 A Yes.

9 Q So you called your Uncle Arturo and he had them kidnapped
10 and killed?

11 A Yes, sir.

12 Q You ordered the murders of El Tio and Gafitas; right?

13 THE INTERPRETER: I'm sorry, Counsel, can you repeat
14 the last name?

15 Q You ordered the murders of El Tio and Gafitas; correct?

16 A That is correct.

17 Q And they were killed; correct?

18 A Yes, sir.

19 Q You ordered the murder of two workers that were stealing
20 from you; right?

21 A Yes, they were stealing some properties that had been put
22 in their names.

23 Q You don't even remember their names; right?

24 A No.

25 Gafitas and Tio.

Poveda-Ortega - cross - de Castro

921

1 Q You also ordered the murder of your ex-wife's boyfriend;
2 right?

3 A She was my wife at the time.

4 Q So you ordered the murder of your wife's boyfriend;
5 right?

6 A Yes, sir.

7 Q And he was a federal officer with the Colombian Air
8 Force; right?

9 A Yes, sir.

10 Q You ordered it and he was killed; right?

11 A Yes, sir.

12 Q Now, just to be clear, you've never paid Genaro Garcia
13 Luna yourself; right?

14 A I did put up money for payments to the Mexican
15 Government.

16 Q You have never paid Mr. Garcia Luna, sitting in front of
17 you, money; correct?

18 A Never.

19 Q You were never present when anyone else gave him money;
20 correct?

21 A That is correct.

22 Q You've never even met him; right?

23 A No. I never met that man.

24 Q You only know him from television; right? How he looks?

25 A Oh, okay. Yes, yes, yes.

Poveda-Ortega - direct - Pilmar

922

1 Q So everything you've testified about regarding Mr. Garcia
2 Luna is what you heard from other people; right?

3 A Yes, it's what I experienced during that time I was with
4 Arturo.

5 Q It's not just experience, it's what other people told
6 you; right?

7 A Well, it was what I experienced, what I heard within the
8 organization.

9 Q Your testimony about Mr. Garcia Luna is only about what
10 people told you?

11 A I'll repeat myself: It's what I saw. It's what I heard.
12 It's what I saw during the time that I was working with the
13 cartel.

14 Q You never sat in a room with this man; correct?

15 A Never.

16 MR. DE CASTRO: No further questions.

17 THE COURT: Redirect?

18 MR. PILMAR: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. PILMAR:

21 Q Good morning, sir.

22 A Good morning.

23 Q You were asked on cross-examination questions about when
24 the last time you spoke to Grande and Rey Zambada.

25 Do you remember those questions?

Poveda-Ortega - direct - Pilmar

923

1 A Yes, of course.

2 Q And you said that was when you were in Washington, D.C.?

3 A In that -- yes.

4 Q Was that recently or was that years ago?

5 A No. That was before -- before Mochomo's trial.

6 Q Did you speak with Grande and Rey Zambada about the
7 defendant Genaro Garcia Luna?

8 A No, not at all.

9 Q Did you speak with them about anyone you had cooperated
10 against?

11 A No.

12 Q Why not?

13 A No. As I mentioned earlier to the defense attorney and
14 regarding Rey, I mean, I asked him why did you want to kill
15 me? Why did you do that thing at Desierto de los Leones? And
16 he said to me, Conejito, and then he did this.

17 You know, it was -- we were at war, you were
18 producing money for Arturo, so just forget about it, just take
19 it easy. From now on we're just going to act as if nothing
20 happened.

21 Q But before that time, when you spoke to him, I think you
22 testified you and Rey Zambada were enemies, you were in
23 different factions; right?

24 A Yes, when the war broke out between Mayo, Chapo and
25 Arturo, they declared me their enemy.

1 I'd like to show you a series of photographs, some
2 of which are in evidence and some of which are not.

3 MR. PILMAR: I'd like to start with Government
4 Exhibit 4, which is in evidence.

5 Q Did you speak to this person, if ever?

6 A No.

7 Q I'd like to show you what's in evidence as Government
8 Exhibit 5. Did you speak to this person, if ever?

9 A Many times.

10 Q When was the last time you spoke to him?

11 A Oh, wow, 15 years ago, or longer ago.

12 Q I'd like to show you what's in evidence as Government
13 Exhibit 8. Did you ever speak to this person?

14 A Yes, with Tirso, many times.

15 Q When was the last time you spoke to Tirso?

16 A Oh, wow, same thing, a long time ago.

17 Q I'd like to show you what's in evidence as Government
18 Exhibit 11. Did you ever speak to this person?

19 A Yes, of course, with Lobo Valencia.

20 Q When was the last time you spoke to him?

21 A A long time before Barbie and Indio kidnapped him.

22 Q So is this before your arrest or after your arrest?

23 A No, a long time before.

24 Q I'd like to show you what's in evidence as Government
25 Exhibit 33. Have you spoken to this person?

Poveda-Ortega - direct - Pilmar

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1 A I don't recognize him.

2 MR. PILMAR: I'd like to show for the witness only
3 Government Exhibit 31.

4 Q Have you spoken to this person?

5 A Never. I don't recognize him.

6 MR. PILMAR: I'd like to show for the witness only
7 Government Exhibit 32.

8 Q Have you spoken to this person?

9 A I don't recognize him.

10 MR. PILMAR: I'd like to show for the witness only
11 Government Exhibit 35.

12 Q Have you spoken to this person?

13 A I don't recognize him.

14 MR. PILMAR: Thank you.

15 You can take that down, Ms. Donovan.

16 Q You were asked on cross-examination some questions about
17 your cooperation agreement. Do you recall that?

18 A Yes.

19 MR. PILMAR: I'd like to show to the jury what's now
20 Defense Exhibit 1 or 3500 HM-P0-5.

21 Q And I'd like to go to paragraph 8 and I'd like to read
22 the paragraph.

23 If the Office determines that the defendant has
24 cooperated fully, provided substantial assistance to law
25 enforcement authorities and otherwise complied with the terms

Poveda-Ortega - direct - Pilmar

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1 of this agreement, the Office will file a motion pursuant to
2 U.S.S.G. Section 5K1.1 and 18, U.S.C., Section 3553(e) with
3 the sentencing court setting for the nature and extent of his
4 cooperation."

5 Do you recall those questions about your 5K letter?

6 A Yes, sir.

7 Q I'd like to skip ahead to a couple lines that were not
8 read. So can we start with the sentence here at the bottom.

9 "In this connection, it is understood that a good
10 faith determination by the Office as to whether the defendant
11 has cooperated fully and provided substantial assistance and
12 has otherwise complied with the terms of this agreement,
13 including the demonstration of acceptance of responsibility
14 described in paragraph 4, and the Office's good faith
15 assessment of the value, truthfulness, completeness, and
16 accuracy of the cooperation shall be binding upon him."

17 MR. PILMAR: Ms. Donovan, can you scroll up for the
18 interpreter. Thank you.

19 Q Do you see that?

20 A Yes.

21 Q So, in other words, the prosecutors's determination as to
22 your truthfulness has to be in good faith under the terms of
23 your agreement; isn't that right?

24 A That is correct.

25 Q Who decides your sentence?

Poveda-Ortega - direct - Pilmar

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1 A The judge.

2 MR. PILMAR: May I have a moment to confer with
3 defense counsel, Your Honor?

4 THE COURT: Yes.

5 (Pause.)

6 MR. PILMAR: Your Honor, with the defendant's
7 consent, I'd like to move into evidence 3500-HM-P0-7, which we
8 will now mark as Government Exhibit 437.

9 THE COURT: Okay. Received.

10 (Government's Exhibit 437 received in evidence.)

11 Q Do you remember being asked questions on
12 cross-examination about how you paid a prison official 5 to
13 \$6,000?

14 A Yes, sir.

15 Q And when you did that, the Government made you plead
16 guilty to a separate crime; isn't that right?

17 A That's correct.

18 MR. PILMAR: Ms. Donovan, I'd ask you to scroll down
19 a little bit. Keep going. Sorry. Right there.

20 Q I'd like to read a sentence: "The sentence imposed on
21 this count may run consecutive to the defendant's sentence in
22 Count One of the indictment." And it lists your other cases;
23 isn't that right?

24 A Yes, sir.

25 Q And you stood before a judge and you pled guilty?

Poveda-Ortega - direct - Pilmar

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1 A Yes, of course.

2 Q And you told the judge what you did?

3 A Of course.

4 Q Right. And that was voluntarily and of your own
5 freewill, that you had to tell the judge you what did, that's
6 how plea allocutions start?

7 A Yes, sir.

8 MR. PILMAR: Ms. Donovan, can we scroll to the last
9 page.

10 Q And the date of this plea agreement, it says August 21st,
11 2015. Do you see that?

12 A Yes, sir.

13 Q When were you released on bail?

14 A My bond was on June 5th of 2019.

15 Q So that's nearly four years after you pled guilty to this
16 additional crime?

17 A Yes, sir.

18 Q Now, you were asked on cross-examination some questions
19 about your immigration status and staying in this country. Do
20 you remember that?

21 A Yes, sir.

22 Q Prior to testifying in this case, did you give the
23 Government information on many other individuals?

24 A Yes, sir.

25 Q Did you sign extradition affidavits?

Poveda-Ortega - direct - Pilmar

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1 A Yes, sir.

2 Q And did you sign one affidavit or more than one
3 affidavit?

4 A More than one.

5 Q And you signed your name on those documents?

6 A Yes, sir.

7 Q And were those documents vehicles to extradite cartel
8 members from other countries?

9 A That's right.

10 Q And did you also sign affidavits in Mexico?

11 A Many.

12 Q Why do you not want to go back to Mexico?

13 A Well, because they'll kill me.

14 Q Why do you not want to go back to Columbia?

15 A For the same reason, I mean, my life is at risk.

16 Q Did you tell the truth here on the witness stand today?

17 A Always.

18 MR. PILMAR: May have I have a moment, Your Honor?

19 THE COURT: Yes.

20 MR. PILMAR: No further questions. Thank you, Your
21 Honor.

22 THE COURT: Really short.

23 Okay. From there.

24 MR. DE CASTRO: Would you mind putting the agreement
25 back up, the cooperation agreement, which is his HM-P0-5, go

Poveda-Ortega - recross - de Castro

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1 to paragraph 10.

2 RECROSS-EXAMINATION

3 BY MR. DE CASTRO:

4 Q Remember you were asked by me and now by Mr. Pilmar again
5 about your cooperation agreement, right?

6 It should be on your screen.

7 A Yes, sir.

8 Q And paragraph 10 says that you must, at all times, give
9 complete, truthful and accurate information and testimony and
10 must not commit or attempt to commit any further crimes;
11 right?

12 A That's right.

13 Q And you violated that provision by edge engaging in the
14 bribery for which you pled guilty?

15 A Yes.

16 MR. DE CASTRO: Nothing further.

17 THE COURT: Okay. All right, ladies and gentlemen,
18 we will take our morning break. Please remember not to talk
19 about the case.

20 We'll see you in here at 11:15.

21 (Jury exits the courtroom.)

22 THE COURT: Okay. Recess, 15 minutes.

23 (Brief recess.)

24

25

Proceedings

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1 (Continuing.)

2 THE COURT: Okay, for the Government's next witness,
3 please, is this someone who has to be brought out?

4 MS. KOMATIREDDY: Your Honor, the next few witnesses
5 are law enforcement witnesses.

6 MR. PILMAR: And, Your Honor, while we're waiting, I
7 want to correct the record. I said that 3500 HMP07 would be
8 Government Exhibit 437, it's going to be
9 Government Exhibit 439. I just want to correct the record.
10 Thank you, Your Honor.

11 (Jury enters the courtroom.)

12 THE COURT: Everyone be seated.
13 Government's next witness.

14 MS. REID: Your Honor, the government calls
15 Cliffton Harrison.

16 (Witness sworn.)

17 THE COURTROOM DEPUTY: State and spell your name for
18 the reporter.

19 THE WITNESS: My name is Cliffton Harrison,
20 C-L-I-F-F-T-O-N, Harrison, H-A-R-R-I-S-O-N.

21 THE COURT: You may inquire.

22 MS. REID: Thank you, Your Honor.

23 (Continued on next page.)
24
25

Harrison - direct - Reid

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1 (Witness takes the witness stand.)

2 CLIFFTON HARRISON, called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. REID:

6 Q Good morning, Mr. Harrison.

7 A Good morning.

8 Q What do you do for a living?

9 A Currently I'm a special agent with the Diplomatic
10 Security Service.

11 Q And is the Diplomatic Security Service part of the State
12 Department for the U.S. Government?

13 A It is.

14 Q How long have you worked with the State Department?

15 A Approximately, five years.

16 Q What did you do before that?

17 A I was an officer with the United States Coast Guard.

18 Q What dates were you an active officer with the
19 Coast Guard?

20 A From 2005 to 2018.

21 Q And you are still is reserve visit with the Coast Guard?

22 A I am.

23 Q What rank did you have when the left the Coast Guard?

24 A Lieutenant.

25 Q And I want to direct you to March of 2007. Were you with

Harrison - direct - Reid

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1 the Coast Guard at that time?

2 A I was.

3 Q What was your rank?

4 A I was an ensign at the time.

5 Q What is that?

6 A It is the junior most rank of the officers in the
7 United States Coast Guard.

8 Q And what was your assignment in March of 2017?

9 A I was signed to the Coast Guard Cutter Sherman.

10 Q What's a cutter?

11 A A cutter is any Coast Guard vessel larger than 64 feet.

12 Q I want to direct you to March 17th of 2007. Did anything
13 unusual happen on that day?

14 A Yes, that was the day that we interdicted the motor
15 vessel Gatun.

16 Q What is a motor vessel?

17 A A motor vessel is any boat or ship that's propelled by an
18 engine.

19 Q And where was the USS Sherman when you interdicted the
20 Gatun?

21 A Was conducting a narcotics patrol south of Panama when we
22 came across the motor vessel Gatun.

23 MS. REID: Your Honor, with the defense's consent, I
24 would like to admit a few exhibits, it's 203-1, 203-2, 203-3,
25 203-5, 203-10, 203-12 through 203-16, 203-36, 203-41, 203-17,

Harrison - direct - Reid

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1 and 203-46.

2 THE COURT: Those are received.

3 (Government Exhibits 203-1, 203-2, 203-3, 203-5,
4 203-10, 203-12 through 203-16, 203-36, 203-41, 203-17, and
5 203-46 were received in evidence.)

6 MS. REID: And 203-4, I apologize.

7 Your Honor, I'm sorry, I'm also moving in 203-4.

8 THE COURT: Received.

9 MS. REID: Thank you.

10 (Government Exhibit 203-4 was received in evidence.)

11 Q I would like to show you what's now in evidence as 203-3.
12 What is this?

13 A This is the motor vessel Gatun.

14 Q How big about was the Gatun?

15 A It's about 300 feet.

16 Q What kind of motor vessel or boat was it?

17 A This is referred to as a coastal freighter mostly known
18 for carrying general cargo, relatively short distances, along
19 the coast.

20 MS. REID: If we could go to 203-5.

21 Q What is this?

22 A This is the motor vessel Gatun being escorted by my
23 vessel, that is the Coast Guard Cutter Sherman.

24 Q Which of the two boats in this picture is the Sherman?

25 A The white vessel with the orange stripe.

Harrison - direct - Reid

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1 Q And that's on the right of the screen?

2 A Yes.

3 Q And so you said on March 17, 2007, there was an
4 interdiction. What does that mean?

5 A An interdiction means -- it's a law enforcement action
6 where we stop a vessel to ascertain what it's doing, what kind
7 of cargo it's carrying, etc.

8 Q And did you do that with the Gatun?

9 A Yes, we did.

10 Q What happened?

11 A We boarded the vessel under order of our captain, got on
12 board. Myself and another boarding officer went to the
13 bridge. The bridge is where the vessel is controlled from.
14 The rest of the crew was mustered in one location and held by
15 my security staff. I went and spoke to the captain and then
16 we proceeded with the admin portion of the boarding, taking a
17 look at the documents to see what they claim they were doing
18 at that time.

19 Q And you used the word mustered. What does it mean that
20 the crew was mustered?

21 A Mustered means to gather the crew in one place for
22 security reasons. So the entire crew was put on -- in one
23 area of the boat with coastguardsmen making sure that they
24 were unarmed and under control.

25 Q And according to your review of documents with the

Harrison - direct - Reid

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1 Gatun's captain, what kind of cargo was the ship purportedly
2 carrying?

3 A It was listed as general cargo, tiles, things of that
4 nature.

5 Q What happened next?

6 A After that, we received orders to start searching the
7 vessel as which point we went to check the containers on the
8 boat. In this picture, that green rectangle you see on the
9 blue boat is an example of one of those containers. That
10 container, all the containers are held in place by chains to
11 stop them from moving while you're at sea. So we were able to
12 open one of the doors but the door could only open so much due
13 to the chains.

14 Back then, I was the leanest member on my team, so I
15 took off my armor, handed off my weapon, and put an oxygen
16 sensor around my neck and grabbed a camera and climbed into
17 the container.

18 Q What happened when you did that?

19 A Once we opened the container, we could see that there was
20 some type of contraband inside, several packages of, like, a
21 burlap type of material that were not listed on cargo.

22 MS. REID: And I want to go to 203-1, if I can.

23 Q What is this picture showing?

24 A So, those objects you see are what we refer to as bales.
25 This container you're looking at is basically the same

Harrison - direct - Reid

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1 container you would see on the back of a semi truck or on a
2 train to give you an idea of the scale of it. This picture
3 was taken by me. Once I got inside, I climbed on top of the
4 bale to see how far back I could go until my oxygen sensor
5 went off for low O2 and then I had to back out of the space.

6 Q The bales you described, can you see those in this
7 picture?

8 A Yes. So, for example -- can I mark this?

9 THE COURT: Yes, you can.

10 A There we go. So, all of these different diags, that's
11 just one example of our -- what we refer to as bales.

12 Q Did you remove the bales from the container?

13 A We did.

14 Q What was inside them?

15 A So we took one bale to ascertain what was inside. Each
16 bale is comprised of individual kilo bricks. We took one
17 brick to take a small sample and we ran it through a narcotics
18 identification kit test, and that test came back positive for
19 cocaine.

20 Q Let's look at 203-41, if we can. What does this picture
21 show?

22 A This is us taking a representative bale and carefully
23 opening it up. Our policy is to make as small an incision as
24 possible as to not disturb anything we don't need to.

25 Q And just to be clear, is this one of the bricks that you

Harrison - direct - Reid

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1 found inside a bale?

2 A Yes.

3 MS. REID: And 203-36, if we can.

4 Q What is this?

5 A So this is the narcotics identification kit test. You
6 take a small sample of the substance that you're testing and
7 you follow the sequence that it says on the package, breaking
8 different ampules, it creates a chemical reaction and then the
9 color of that reaction tells you what kind of substance you're
10 dealing with.

11 Q After you determined that the bricks contained cocaine,
12 what did you do?

13 A We reported that information back to the ship. We were
14 then instructed to detain the crew. The crew was taken to the
15 Coast Guard Cutter Sherman. My team and I, at that point,
16 took control of the motor vessel Gatun and we started laying
17 out all of the contraband on the deck of the Gatun.

18 MS. REID: And if we can go to 203-10, please.

19 Q What is this?

20 A So that is the totality of the contraband that was in the
21 two containers that you saw on deck. It took us the entire
22 night to take every single bale out of those containers to
23 line them up.

24 Q How many bales, approximately, did you recover?

25 A It was around 700. I don't recall the exact number.

Harrison - direct - Reid

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1 Q Once you removed the bales from the containers on the
2 Gatun, what did you do with them?

3 A So the next thing was we had to take all of the
4 contraband from the Gatun and take it to the Sherman so it
5 would be held in a safe location. So we had our small boats,
6 which are small, like, rubber Hull inflatable boats, and we
7 just went back and forth all day moving bales, putting them on
8 the Sherman, and then securing them below deck.

9 MS. REID: And if we can go to 203-12, please.

10 Q What is this picture?

11 A That's a picture of the bale count. So as we layed all
12 of the bales out on deck, there were some Coast Guard staff
13 that were in charge of keeping track of how many bales we
14 moved.

15 MS. REID: And 203-13.

16 Q What is this?

17 A It's another picture of the entire interdiction. Just
18 the mass of contraband that we found.

19 Q And what boat or ship is the contraband on at this point?

20 A I believe this may be the Sherman.

21 MS. REID: 203-14.

22 Q What is this?

23 A That's a continuation of the tracking of the bales.

24 MS. REID: And 203-15.

25 Q I think we've seen a similar picture, but what is this?

Harrison - direct - Reid

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1 A That's the same process, keeping track of the number of
2 bales that we moved to the Sherman.

3 MS. REID: And 203-16.

4 Q And what is this?

5 A So this is more of an aerial view from the bridge where
6 the boat is driven. This is definitely the
7 Coast Guard Cutter Sherman and you can see the entirety of the
8 interdiction.

9 Q So after you got the bales of cocaine onto the Sherman,
10 what did you do with the Gatun?

11 A The Gatun was turned over to Panama.

12 Q How did you get it there?

13 A My team and I took turns driving it under the escort of
14 the Sherman, we sailed it to Panama City where it was turned
15 over to the Panamanian authorities.

16 MS. REID: Just briefly if we can go to a video. I
17 would like to show 203-17 in evidence. And to play from 02:50
18 to 03:01.

19 (Video played.)

20 MS. REID: Okay, thank you. We can stop.

21 Q What did we just see in this clip?

22 A So this is the motor vessel Gatun under escort of the
23 Sherman. There's a good chance when this video was taken,
24 that I was driving the Gatun. This is us taking it to be
25 turned over to Panama.

Harrison - direct - Reid

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1 Q After you took the Gatun and its crew back to Panama,
2 what did you do with the cocaine you recovered?

3 A It was stored in, what used to be the sonar room on the
4 Coast Guard Cutter Sherman. It's, like, the lowest part of
5 the boat that was sealed under key and guarded.

6 Q And did you take it anywhere?

7 A We took it to Alameda, California.

8 Q How did you then get it off of the Sherman?

9 A Good old fashion manual labor. Due to the restriction of
10 the space in the boat, everything had to be moved by hand. So
11 we conducted what the called a daisy chain where, basically,
12 we went one bale at a time, handing it from one person to
13 another. Took that all the way off the boat onto the pier and
14 laid it all out for transfer to the DEA.

15 MS. REID: And just briefly, if we can go to video
16 203-46 in evidence, and play for the first minute.

17 (Video played.)

18 MS. REID: We can stop there.

19 Q What did we just see?

20 A You just pretty much followed a bale from where it was
21 being held in sonar all the way out to the pier. You can see
22 how restricted you are in space on one of those boats, so the
23 only way to move it was -- was by hand.

24 Q And did you and your colleagues do this for all 700
25 bales?

Harrison - direct - Reid

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1 A Yes, we did.

2 Q Approximately how large was the total amount of cocaine
3 recovered from the Gatun?

4 A It's my understanding it was approximately 20 tons of
5 cocaine.

6 Q How did this seizure rank in comparison to other seizures
7 by the US Coast Guard?

8 A At that time, and I believe the record still holds, for
9 the single largest maritime seizure conducted by the
10 United States Coast Guard.

11 MS. REID: No further questions.

12 THE COURT: Any cross?

13 MR. MIEDEL: No, Judge.

14 THE COURT: Let me see counsel at sidebar for just a
15 minute.

16 (Continued on the next page.)

17 (Sidebar conference.)

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Sidebar Conference

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1 (The following occurred at sidebar.)

2 THE COURT: I just wonder if the government's over
3 doing it. I mean, I understand that you need to establish the
4 existence of the cartel and importing drugs into the United
5 States and we got all of that, but at some point it becomes
6 beating a dead horse, right? We've got to focus more on
7 defendant's involvement.

8 MS. KOMATIREDDY: Yes, Your Honor. There's actually
9 only one more seizure witness. There's one for each
10 violation. There's six violations charged, so that was one of
11 the violations.

12 THE COURT: I see. Got it. Fine.

13 (End of sidebar conference.)

14 (Continued on the next page.)

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Madrigal - direct - Pilmar

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1 (In open court; jury present.)

2 THE COURT: Government's next witness.

3 MR. PILMAR: Your Honor, the government calls
4 Miguel Madrigal witness up.

5 (Witness sworn.)

6 THE COURTROOM DEPUTY: Please be seated, and state
7 and spell your name for the Court Reporter. You can also move
8 the mic, as well.

9 THE WITNESS: Okay. My name is Miguel Madrigal,
10 M-I-G-U-E-L, my last name is M-A-D-R-I-G-A-L.

11 THE COURT: Please inquire.

12 MR. PILMAR: Thank you, Your Honor.

13 **MIGUEL MADRIGAL,**

14 called as a witness, having been first duly

15 sworn/affirmed, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PILMAR:

18 Q Good morning, sir.

19 A Good morning.

20 Q Where do you work?

21 A For the Drug Enforcement Administration.

22 Q What's your title there?

23 A Deputy special agent in charge.

24 Q Of a specific region?

25 A Texas.

Madrigal - direct - Pilmar

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1 Q How long have you worked at the DEA?

2 A Since November of 2003.

3 Q Have you ever been posted abroad for the DEA?

4 A Yes, I have.

5 Q Were you posted in Mexico?

6 A I was.

7 Q What year did you arrive in Mexico with the DEA?

8 A April of 2005 -- I'm sorry, April, 2008.

9 Q Sorry, April 2000 what?

10 A 2008.

11 Q What questionnaire did you leave?

12 A I left August 2015.

13 Q What was your title when you got to Mexico?

14 A I was a special agent.

15 Q What was your title when you left Mexico?

16 A Supervisory special agent.

17 Q What did you do as a special agent for the DEA in Mexico?

18 A You conduct investigations, you get information from
19 domestic offices in the U.S., get that information, share it
20 with host nation counterparts and work investigations
21 together.

22 Q How about as a supervisory special agent, what's the
23 difference?

24 A I oversee special agents doing their investigations and
25 make sure they get what they need in order to succeed in their

Madrigal - direct - Pilmar

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1 investigations.

2 Q How many offices does the DEA have in Mexico?

3 A I believe we have 11 offices.

4 Q Which office were you in?

5 A Mexico City office.

6 Q Why does the DEA have offices in Mexico?

7 A It's important to establish relationships the host
8 nation, to work investigations collectively, and further the
9 investigations both in the U.S. and in Mexico.

10 Q What are you generally investigating?

11 A Narcotics trafficking organizations.

12 Q What goals can be accomplished by being based in Mexico
13 that you can't accomplish being based in the United States?

14 A Daily interaction with the host nation counter parts and
15 development of investigations.

16 Q As a special agent in a foreign country, what
17 investigative techniques are you allowed to take?

18 A We could -- we could recruit and get information from
19 confidential sources, we could also share intelligence with
20 our host nation counterparts.

21 Q Are there things you're not permitted to do as a U.S. law
22 enforcement agent abroad?

23 A Yes.

24 Q Does the DEA have the ability to order Mexican banks to
25 seize assets?

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1 A No.

2 Q Can the DEA compel businesses in Mexico to provide
3 evidence to the DEA?

4 A No.

5 Q Is the DEA authorized to conduct searches in Mexico?

6 A No.

7 Q Can the DEA conduct arrests in Mexico?

8 A No.

9 Q Account DEA conduct arrests in any foreign country?

10 A No.

11 Q So if you can't do all of these things, what's the point
12 of being an agent in Mexico?

13 A The point is to build relationships with law enforcement
14 officials from the host nation and work the cases in
15 collaboration and execute the operations of our
16 investigations.

17 Q What kind of operations are you talking about?

18 A Arrest operations or basic investigations.

19 Q Are you able to wiretap phones or radios in Mexico
20 without Mexican government approval?

21 A No.

22 Q So if you want to wiretap a phone or radio in Mexico,
23 what do you have to do?

24 A You have to work with your Mexican law enforcement
25 counterparts and get an order, a court order to the Mexican

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1 federal prosecutors.

2 Q Is that a slow process or a quick process?

3 A A very slow process.

4 Q Are there some devices in Mexico that you have the
5 technology to intercept if you worked with the Mexican law
6 enforcement?

7 A Yes.

8 Q And were there some that you could not?

9 A Correct.

10 Q Have you ever heard of something called USA-cell or
11 USA-cell?

12 A Yes.

13 Q What is that?

14 A It was a telephone company or telephone carrier in Mexico
15 who had a specific phone that was a push-talk radio and it
16 used very old technology that we were unable to intercept.

17 Q Why were you unable to intercept it?

18 A The Mexicans did not have the equipment to be able to
19 capture frequencies from those phones.

20 Q Are you aware if any major drug traffickers used uceace1?

21 A Yes.

22 Q And how are you aware of that?

23 A I witnessed it.

24 Q What did you witness?

25 A A telephone call between a confidential source and

Madrigal - direct - Pilmar

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1 Arturo Beltran Leyva.

2 Q Could you hear the call?

3 A Yes.

4 Q You said when you were an agent in Mexico, you had
5 something called confidential sources?

6 A Yes.

7 Q What's a confidential source?

8 A It's a person that's cooperating with law enforcement.

9 Q How do they cooperate with law enforcement?

10 A They -- they become registered, we vet their information,
11 and they do it for different reasons, for pay or for
12 consideration.

13 Q What kind of information do you get on them -- sorry,
14 from them?

15 A We get information regarding your investigation or your
16 targets of investigation.

17 Q What do you hope to use that information for?

18 A To build an investigation and eventually get enough
19 information to charge the criminal.

20 Q Did you have sources in Mexico that had information on
21 corrupt government officials?

22 A Yes.

23 Q Did you ever ask them to record a conversation with a
24 corrupt government official?

25 A Never.

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1 Q Why not?

2 A It's illegal.

3 Q What would be a legal way to do it?

4 A Working with your Mexican counterparts and with Mexican
5 Prosecutor's Office and doing it in collaboration.

6 Q Did you ever ask the Mexican government or police
7 officials to record a conversation between a confidential
8 source and a corrupt government official?

9 A Never.

10 Q Why not?

11 A For two reasons, I did not want to compromise or reveal
12 who the confidential source was or I didn't want to make the
13 confidential source uncomfortable.

14 Q Who did you not want to reveal the confidential source
15 to?

16 A To potential bad actors who could hurt or kill the
17 confidential source.

18 Q Where would those bad actors be?

19 A In Mexico.

20 Q So why not bring a Mexican police or government official
21 to the confidential source meeting?

22 A It still exposes the source and we don't know -- once the
23 source is exposed, you don't know where the information is
24 gonna go.

25 Q What's your concern that could happen if a source is

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1 exposed?

2 A He could be identified by the organization he's working
3 and he could be killed.

4 Q Did you ever have confidential sources who were killed in
5 Mexico?

6 A Yes.

7 Q Was it one or more than one?

8 A More than one.

9 Q What Mexican government agencies did you interact with?

10 A I worked with Mexican federal police, or SSP, I work with
11 the Mexican marines, I work with the Mexican Army, and I work
12 with the Mexican Federal Prosecutor's Office.

13 Q I want to break that down a little bit. You said SSP.
14 What's SSP?

15 A SSP was Secretaría de Seguridad Pública, or the Mexican
16 federal police.

17 Q What did you interact with them for?

18 A We worked joint investigations and our sensitive
19 investigation unit was under the SSP.

20 Q You mentioned you also worked with Mexican prosecutors?

21 A I did.

22 Q Did that have an acronym?

23 A Yes. The unit I used to work with was -- was SEIDO at
24 the time.

25 Q And can you spell that?

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1 A It's S-E-I-D-O. It was a criminal -- organized criminal
2 crime investigation. Organized crime division, I apologize.

3 Q And sometimes that's been referred to as SIEDO also?

4 A Yes, a few years after I arrived, it changed to SIEDO.

5 Q What did they do?

6 A They conducted investigations. They are the prosecutors
7 that supported our investigations against narcotics
8 trafficking organizations.

9 Q Is the Mexican Prosecutor's Office part of the federal
10 police?

11 A No.

12 Q Is the Mexican Federal Prosecutor's Office part of the
13 SSP?

14 A No.

15 Q Is SIEDO part of the SSP?

16 A No.

17 Q You mentioned you worked with the navy. Did that have an
18 acronym?

19 A Yes, SEMAR.

20 Q Can you spell that?

21 A S-E-M-A-R.

22 Q What did they do?

23 A They were in charge of the port's maritime operations and
24 they also conducted investigations against narcotics
25 trafficking organizations.

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1 Q Did you work closely with SEMAR?

2 A I did.

3 Q Is SEMAR part of the SSP?

4 A No.

5 Q Is SEMAR part of the federal police?

6 A No.

7 Q You also mentioned you worked with the Army. Does that
8 have an acronym?

9 A It does.

10 Q What's that?

11 A SEDENA, S-E-D-E-N-A.

12 Q What did you do with the Army?

13 A Conducted investigations -- I'm sorry, operations,
14 against narcotics trafficking organizations.

15 Q And you did that with them?

16 A Yes.

17 Q Is the Army part of SSP?

18 A No.

19 Q Is the Army part of the federal police?

20 A In.

21 Q Based on your experience in Mexico, did these agents
22 generally work together?

23 A Not necessarily.

24 Q And how do you know that?

25 A Since I worked with each organization, when we're working

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1 investigations, they would ask me not to share information of
2 our investigation with any other entity. I also witnessed
3 investigations where there was overlap on the target and it
4 could have resulted in a police-on-police scenario, and I was
5 clear that there was lack of trust or coordination between the
6 agencies at that time.

7 Q What do you mean there could have been a police-on-police
8 scenario?

9 A So, for example, if you're targeting a specific
10 individual, if there's no coordination between the government
11 entities that are working, they could actually be pitted
12 against each other and that could result in a catastrophe.

13 Q So to be clear, there were times when you worked with one
14 agency and you saw them not interacting with the other agency?

15 A Correct.

16 Q And were there times that your federal police
17 counterparts would ask you what the other agencies were doing
18 with respect to certain drug trafficking targets?

19 A Not often because they knew I wouldn't share information.

20 Q And why did they know that?

21 A Because part of my job was to work each investigation
22 with the organization that was working with us, and if I
23 shared the information, it would allow the possibility of the
24 information being leaked.

25 Q Did you generally try to keep information as close to the

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1 vest as possible?

2 A Completely.

3 Q And why is that?

4 A Because it's a high potential of the information being
5 exposed or leaked.

6 Q Is that something you did throughout your time in Mexico?

7 A Yes.

8 MR. PILMAR: I'd like to show for the witness what's
9 in evidence as Government Exhibit 3.

10 Q Do you recognize this person?

11 A I do.

12 Q Who is it?

13 A His name is Ramon Pequeno.

14 Q What was his role?

15 A When I was working with SSP, he was a director of the
16 narcotics division.

17 Q How often did you see him?

18 A Almost weekly or biweekly.

19 Q Why did you see him so often?

20 A I worked with his -- with the SIU and the SIU fell under
21 his division.

22 Q What's the SIU?

23 A The SIU is the Sensitive Investigation Unit.

24 Q What did they do, the SIU?

25 A The SIU are officers, police officers from the host

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1 nation that are trained and vetted by us and polygraphed, and
2 we work exclusively with them as far as investigations.

3 Q Even though they were vetted and polygraphed, did you
4 still have to be careful what information you shared with
5 them?

6 A Yes.

7 Q Why is that?

8 A Because there's always a potential of information being
9 leaked.

10 Q Did Ramon Pequeno speak to you about his boss?

11 A Yes.

12 Q Who was that?

13 A Genaro Garcia Luna.

14 Q Did Ramon Pequeno have unique facial features?

15 A He did.

16 Q What is that?

17 A He had a large mark on his cheek.

18 Q So what kind of things would you talk to Ramon Pequeno
19 about?

20 A Operations, investigations, targets.

21 Q And to be clear, are those drug trafficking targets?

22 A Correct.

23 MR. PILMAR: I'd like to show the witness what's in
24 evidence as Government Exhibit 18.

25 THE COURT: You would like to show the witness?

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1 MR. PILMAR: Sorry. I apologize, Your Honor,
2 Government Exhibit 18 that's in evidence. Thank you. I
3 apologize.

4 Q Sir, do you recognize this person?

5 A I do.

6 Q Who is that?

7 A Ivan Reyes.

8 Q Who is he?

9 A He was a commander of our SUI unit.

10 Q What does mean he was the commandery?

11 A He was our primary interlocutor between DEA and the
12 Sensitive Investigation Unit.

13 Q What does that mean, interlocutor?

14 A That we communicated through him with the SUI. So if we
15 needed support or if we needed to conduct an investigation, he
16 would be our primary point of contact.

17 Q How often did you interact with him?

18 A Weekly.

19 Q What was your understanding of who he reported to?

20 A He reported to Ramon Pequeno.

21 Q How do you know this?

22 A Because I worked with both together.

23 Q Did you ever see them together?

24 A Yes.

25 Q And did you ever discuss operations where they were both

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1 there?

2 A Yes.

3 MR. PILMAR: I'd like to show what's in evidence as
4 Government Exhibit 36, please.

5 Q Who is this?

6 A Victor Garay.

7 Q Who is he?

8 A He was a commissioner within the SSP, Mexican Federal
9 Police.

10 Q What kind of stuff did he handle?

11 A He -- durinmy time, he handled operations, he handled --
12 he was a different division from -- from Pequeno and he
13 handled -- there was a unit that did special operations and it
14 was under his -- his division.

15 Q Were they focusing on drug traffickers?

16 A Yes.

17 Q Who did he report to?

18 A To Genaro Garcia Luna.

19 Q Did you ever meet Victor Garay?

20 A I did.

21 Q How many times?

22 A Once.

23 Q Can you tell us about it?

24 A I was conducting interviews at SIEDO pursuant to a
25 corruption case and he was present in the building when I was

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1 there, on the floor where I was doing the interviews.

2 Q Can you remind us what SIEDO is again?

3 A Is the organized crime unit of the Mexican Federal
4 Prosecutor's Office.

5 Q Who were you interviewing, without revealing the name,
6 what type of person?

7 A It was an individual we had arrested for narcotics
8 trafficking and we were trying to get information regarding
9 corruption.

10 Q Corruption where?

11 A In Mexico.

12 Q And where was Victor Garay doing this interview?

13 A On the same floor, right outside the interview room.

14 Q Did anything about this stand out to you?

15 A Yes.

16 Q What was that?

17 A It was the first time I had seen someone of his ranking
18 at the prosecutor's office.

19 Q Why does it stand out to you today?

20 A It's not a common thing.

21 Q Were there any concerns you had about Victor Garay being
22 present while you were interviewing this suspect about
23 corruption?

24 A Yes.

25 Q What's that?

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1 A That the suspect might be intimidated because of his
2 presence.

3 MR. PILMAR: I would like to show what's already in
4 evidence as Government Exhibit 19-A.

5 Q Who is this?

6 A He is -- his name was Edgar Bayardo.

7 Q Who is he?

8 A He was a commander within a Mexican Federal Police unit.

9 Q Is that part of the SIU?

10 A No.

11 Q What was it?

12 A It was a narcotics unit independent of the SIU.

13 Q How often did you meet with him?

14 A Often, I'd say weekly or biweekly.

15 Q What would you meet with him about?

16 A About operations and investigations.

17 Q So even though he wasn't in the SIU, you would still meet
18 with him about operations?

19 A Yes.

20 Q And that was to target drug traffickers?

21 A Yes.

22 Q Who did he report to?

23 A He reported to Victor Garay.

24 MR. PILMAR: Thank you. We can take that down for
25 now.

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1 Q During your DEA career, have you been personally involved
2 in extraditing criminals from Mexico to the United States?

3 A Yes.

4 Q Do Mexican officials have any role in deciding who gets
5 charged in the United States with a crime?

6 A No.

7 Q After someone is charged with a crime in the United
8 States and they're located in Mexico, what are the next steps
9 in the law enforcement process?

10 A We request a provisional arrest warrant to the United
11 States Attorney -- to the U.S. Attorney's Office. That
12 Provisional Arrest Warrant, which is a PAW, is then sent to
13 Mexico. There's a specific agency, which is Foreign Relations
14 in Mexico, that oversees and reviews the PAW package. And if
15 it's approved, it's provided to a Mexican judge who has a
16 final decision.

17 Q And the Mexican authorities arrest someone on U.S.
18 charges without that provisional arrest warrant?

19 A No, not pursuant to our provisional arrest. They could
20 do it under their own criminal investigation.

21 Q And can you tell us again, who in Mexico receives that
22 provisional arrest request?

23 A It would be Administrative Foreign Relations.

24 Q Is that in the SSP?

25 A No.

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1 Q Is that part of the Federal Police?

2 A No.

3 Q Who decides whether a provisional arrest warrant will be
4 executed or approved in Mexico?

5 A A judge.

6 Q Is that judge part of the SSP?

7 A No.

8 Q Is that judge part of the Federal Police?

9 A No.

10 Q So now you have the provisional arrest warrant and you
11 want to arrest the person. What happens next?

12 A Then you confirm the PAW has been launched in Mexico and
13 you work with the unit to locate the target and get him in
14 custody.

15 Q Which units did you work with to do those arrests?

16 A SIU, SEMAR, and SEDENA.

17 Q And the SIU, that's part of the Federal Police?

18 A Yes.

19 Q And, so, you worked with all three different agencies?

20 A Correct.

21 Q Would you usually work with one agency at a time or with
22 all three agencies in partnership?

23 A One agency at a time.

24 Q Once the individual has been arrested, who decides if
25 that person will be extradited to the United States?

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1 A A judge.

2 Q A judge where?

3 A Mexico.

4 Q Does the Federal Police or the Secretary of Public
5 Security have any role in whether a criminal defendant is
6 extradited to the United States?

7 A No.

8 MR. PILMAR: Your Honor, at this time, I would like
9 to move into evidence a stipulation, Government Exhibit 903.

10 THE COURT: All right. Received.

11 (Government Exhibit 903 was received in evidence.)

12 THE COURT: Ladies and gentlemen, you remember what
13 I told you about stipulations.

14 MR. PILMAR: I'm going to read it to the jury if
15 that's all right, Your Honor.

16 THE COURT: Please.

17 MR. PILMAR: It is hereby agreed by the parties,
18 one, on February 17, 2012, Harold Mauricio Poveda-Ortega was
19 extradited from Mexico to the United States and was first
20 brought to Long Island MacArthur Airport in Ronkonkoma, New
21 York, which is in the Eastern District of New York.

22 On April 3rd, 2012, Jesus Zambada Garcia was
23 extradited from Mexico to the United States and was first
24 brought to Long Island MacArthur Airport in Ronkonkoma, New
25 York, which is in the Eastern District of New York.

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1 On December 17, 2015, Tirso Martinez Sanchez was
2 extradited from Mexico to the United States and was first
3 brought to John F. Kennedy International Airport in Queens,
4 New York, which is the Eastern District of New York.

5 On January 19, 2017, Joaquin Archivaldo Guzman Loera
6 was extradited from Mexico to the United States and was first
7 brought to Long Island MacArthur Airport in Ronkonkoma, New
8 York, which is in the Eastern District of New York.

9 And this stipulation is marked as
10 Government Exhibit 903 is admissible evidence at trial, signed
11 by the parties.

12 Can you go back to the first page, and we'll come
13 back to this in a minute. Actually, I'm sorry, can we show
14 what's already in evidence as Government Exhibit 17.

15 Q Do you know who this is?

16 A Yes.

17 Q Who is that?

18 A Sergio Villarreal Barragan, aka Grande.

19 Q Who arrested him?

20 A SEMAR.

21 Q How do you know that?

22 A Because we worked the operation with them.

23 Q Was the Federal Police involved in his arrest at all?

24 A No.

25 Q Was he extradited to the United States?

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1 A Yes.

2 Q Was this after the death of Arturo Beltran?

3 A Yes.

4 Q Did you ever meet with Sergio Villarreal Barragan in
5 Mexico?

6 A I did.

7 Q When was that.

8 A Shortly after his detention.

9 Q How shortly?

10 A Hours.

11 Q And did you speak with him?

12 A I did.

13 Q Did he provide you any information on Genaro Garcia Luna?

14 A He did.

15 Q What did he say?

16 A He talked about business dealings that they had with him
17 during his time as -- when Sergio was a police officer and
18 later on, a member of the Beltran Leyva organization.

19 Q Who is "they" when you're talking about them?

20 A I apologize, what was that?

21 Q You said the dealings they had with --

22 A Other members of the Beltran Leyva organization.

23 Q Members of the Beltran Leyva organization had dealings
24 with --

25 THE COURT: Okay, you both have to slow down.

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1 You're kind of stepping on each other, and now you're stepping
2 on mine, making it harder for the court reporter. Please,
3 slow down.

4 MS. PILMAR: I apologize, Your Honor.

5 Q What did Sergio tell you?

6 A He just detailed information regarding their
7 associations.

8 Q Did they say whether they had paid Genaro Garcia Luna?

9 A Yes.

10 MR. MCMANNUS: Objection, Your Honor.

11 THE COURT: One word?

12 MR. MCMANNUS: Two words, in furtherance.

13 THE COURT: Sustained.

14 MR. PILMAR: May we have a sidebar, Your Honor?

15 THE COURT: Yes.

16 (Continued on the next page.)

17 (Sidebar conference.)

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Sidebar Conference

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1 (The following occurred at sidebar.)

2 THE COURT: I need to hear from the government.

3 MR. PILMAR: Yes, I was just waiting for the court
4 reporter. Yes, but they have raised the fact that

5 Mr. Villarreal Barragan had fabricated his story in order to

6 --

7 THE COURT: Is this the prior inconsistent --

8 MR. PILMAR: It's a prior inconsistent statement and
9 Your Honor already overruled an objection on this during
10 redirect that Mr. Villarreal Barragan -- I just had that one
11 more question and then I was moving on.

12 THE COURT: Okay. How does the fact that it's a
13 prior consistent statement overcome the hearsay nature of the
14 statement?

15 MR. PILMAR: That's the -- I think that's with any
16 prior consistent statement. It's not for the truth of the
17 matter, it's to rebut the claim by the defense that it's a
18 recent fabrication in order to get out of a potential life
19 sentence in America when he's cooperating with the U.S.
20 government. This is within hours of his arrest. He's in
21 Mexico.

22 THE COURT: How does the defense feel about an
23 instruction where I tell the jury that this statement is not
24 being offered for the truth, but it's being offered to show
25 that immediately after his arrest, he said the same thing he

Sidebar Conference

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1 said in court?

2 MR. DE CASTRO: I'm sorry, we're talking about the
3 cross of La Grande. I didn't do -- the cross of La Grande, I
4 didn't do anything, I never did, never mentioned, never
5 mentioned, never mentioned Mr. Garcia Luna. That's not what
6 we're talking about --

7 MS. REID: Your Honor, if I could, in 2012, you saw
8 an opportunity -- I don't know if that was the right word but
9 we reviewed this last night and there were a series of
10 questions about 2012 when you were in the U.S., you decided to
11 come up with something really big because you weren't sure you
12 would get a cooperation agreement. And I believe that's why
13 the objection was overruled when it was made previously.

14 MR. MCMANNUS: Can I just jump in. I think one of
15 the parts of the prior consistent statement has to be when the
16 motive to fabricate a story started, and
17 Mr. Villarreal Barragan said that as soon as he was arrested,
18 he immediately decided that he wanted to cooperate, so this
19 would have been after his arrest.

20 MS. REID: Yes, but the allegation of the
21 fabrication was still made -- the allegation of a more recent
22 fabrication was made. There a series of questions about 2012
23 and about having to come up with a big target in order to get
24 a cooperation agreement.

25 MR. DE CASTRO: I think we need a transcript cite on

Sidebar Conference

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1 this because I don't remember -- unless I'm missing some
2 questions.

3 MS. REID: I'm happy to pull it up, Your Honor.

4 THE COURT: Let's pull it up. Keep the jury here
5 for a minute. It'll take just a minute, right?

6 Okay. Let's see what happens.

7 MS. REID: I think we have it, Your Honor.

8 240, 241, from January 24. Your Honor, this is 241,
9 I just want to point out previously there were questions about
10 2012, these were the questions leading up to it:

11 "And you had a lot riding on them wanting to use you
12 as a witness," and he's talking about the possibility of
13 cooperating in the U.S.

14 THE COURT: All right. I'm not going to allow it
15 because once he was arrested, he had a motive to fabricate
16 and, therefore, the fact that he fabricated twice, allegedly,
17 doesn't support it. To the prior inconsistent statement, it
18 would have to be given at a time before the motive to
19 fabricate came around, so it's precluded.

20 (End of sidebar conference.)

21 (Continued on the next page.)

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1 (In open court; jury present.)

2 BY MR. PILMAR:

3 Q I would like to show you what's in evidence as
4 Government Exhibit 10. Do you know who this is?

5 A Yes.

6 Q Who is that?

7 A Harold Poveda Ortega aka Conejo.

8 Q Who arrested him?

9 A Our SIU unit.

10 Q And that's in the Federal Police?

11 A Yes.

12 Q Was this before or after the death of Arturo Beltran?

13 A After the death.

14 Q I'd like to show you what's in evidence as
15 Government Exhibit 13. Who is this?

16 A Rey Zambada.

17 Q Who arrested him?

18 A It was a combination of AFI, and the Mexico City Police.

19 Q Was AFI part of the SSP?

20 A No.

21 Q Were you present at the scene right after Rey Zambada's
22 arrest?

23 A I was.

24 Q What did you see?

25 A It appeared that the home had been searched and there was

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1 a lot of paper and debris all over the house.

2 Q I'd like to show you what's in evidence as

3 Government Exhibit D. Who is this?

4 A Tirso Martinez.

5 Q And who arrested him?

6 A SSP.

7 MR. PILMAR: Can we go back to

8 Government Exhibit 93.

9 Q Can you read that okay? Do you see that in front of you?

10 A I can.

11 Q Can you read paragraph three?

12 A On December 17, 2015, Tirso Martinez Sanchez was
13 extradited from Mexico to the United States and was first
14 brought to John F. Kennedy International Airport in Queens,
15 New York, which is in the Eastern District of New York.

16 Q Are you familiar with someone named Alex Cifuentes?

17 A I am.

18 Q Who is he?

19 A He was a Colombian national who was also a member of the
20 Sinaloa Cartel.

21 Q Who arrested him?

22 A Security service, the Mexican military.

23 Q Which branch of the military?

24 A Army.

25 Q Did they do that operation with anyone else?

Madrigal - direct - Pilmar

972

1 A No.

2 Q I'd like to show you what's in evidence as
3 Government Exhibit 4. Who is that?

4 A Joaquin Guzman Loera.

5 Q 2014, who arrested him?

6 A Mexican marines.

7 Q Was the Federal Police involved in this operation?

8 A No.

9 Q Did something significant happen with Guzman Loera in
10 2015?

11 A Yes.

12 Q What was that?

13 A He escaped from prison.

14 Q Was Ramon Pequeno still a government official at that
15 time?

16 A He was.

17 Q I want to show you what's in evidence as
18 Government Exhibit 5. Who is this?

19 A Ismael Zambada Garcia.

20 Q Who arrested him?

21 A He's not been arrested.

22 Q I'll change topics for a minute.

23 MR. PILMAR: You can take this down.

24 Q How long did you live in Mexico City?

25 A Almost seven and a half years.

Madrigal - direct - Pilmar

973

1 Q Where in Mexico City was the DEA office located?

2 A By the -- the embassy was located in Avenida Paseo --
3 Avenida Paseo, there's a large statute with an angel.

4 Q Were there any nice French restaurants nearby?

5 A There were.

6 Q What was the name of that restaurant?

7 A Campos Elíseos.

8 Q I'd like to show you what's been marked for
9 identification as Government Exhibit 401. I want to come back
10 to something for a second. We were talking about when
11 El Chapo Guzman escaped in 2015. Where was he when he
12 escaped, in Mexico or the United States?

13 A In Mexico.

14 Q So turning to what's been marked for identification as
15 Government Exhibit 401.

16 MR. PILMAR: Just for the witness only, please.

17 Q What are we looking at here?

18 A That's the area where the US embassy is located, in
19 Mexico City.

20 Q Is that a fair and accurate depiction of that area?

21 A It is.

22 MR. PILMAR: I would like to move 401 --

23 THE COURT: I thought we had this in already.

24 MR. PILMAR: Oh, did we? I apologize, Your Honor.

25 Q What are we looking at here?

Madrigal - direct - Pilmar

974

1 A We're looking -- you can see the embassy right next to
2 the Sheraton hotel on the left of the picture.

3 Q Can you circle where the embassy is?

4 A The --

5 MR. PILMAR: The witness is circling to the left
6 next to the Sheraton.

7 Q And can you circle on the map where that French
8 restaurant we were just talking about it is.

9 Thank you.

10 MR. PILMAR: You can take that down. I'd like to
11 show for the witness only, what's been marked for
12 identification as Government Exhibit 313.

13 Can we zoom in just a little.

14 THE COURT: Mr. Pilmar, stop apologizing. It's
15 okay.

16 Q 313. What are we looking at here?

17 A Looking at a map of the area in Mexico City where the
18 U.S. embassy is located.

19 Q Can you circle on the map where the embassy is.

20 And can you circle where that restaurant we were
21 just talking about is.

22 A Somewhere in this area right here.

23 Q So it looks like almost directly across the street?

24 A Almost.

25 Q Did you ever go to that restaurant?

Madrigal - direct - Pilmar

975

1 A I did.

2 Q Why?

3 A We had information that there were meetings with high
4 ranking government officials where they were getting payoffs
5 by the cartels.

6 MR. DE CASTRO: Objection.

7 Q Did you ever go inside?

8 A Yes.

9 Q Did you ever look for anything?

10 A I looked for cameras.

11 Q And did you find any?

12 A None.

13 MR. PILMAR: I'd like to show the witness what's
14 been marked for identification as Government Exhibit 401 and
15 four zero two -- sorry, 402 and 403.

16 Q What are we looking at 402 here?

17 A That's the restaurant, the French restaurant we were
18 speaking about.

19 Q Does that look to be a fair and accurate depiction of the
20 restaurant?

21 A It is.

22 MR. PILMAR: Your Honor, I ask to move 402 into
23 evidence.

24 MR. DE CASTRO: No objection.

25 THE COURT: Received.

Madrigal - direct - Pilmar

976

1 (Government Exhibit 402 was received in evidence.)

2 Q What is this again?

3 A That's Campos Elíseos restaurant.

4 Q Now, on the picture it reads to me as Champs Élysées, but
5 you're saying something different. Why is that?

6 A Because we used to say it in Spanish with the informants.

7 Q What's the word in Spanish again?

8 A Campos Elíseos, Champs Élysées.

9 MR. PILMAR: Government Exhibit 403 for the witness
10 only, please.

11 Q And what's that?

12 A Same restaurant.

13 Q Does that appear to be a fair and accurate depiction of
14 the restaurant?

15 A It is.

16 MR. PILMAR: Your Honor, I ask to move
17 Government Exhibit 403 into evidence.

18 MR. DE CASTRO: No objection.

19 THE COURT: Received.

20 (Government Exhibit 403 was received in evidence.)

21 Q I'd like to turn back to what's in evidence as
22 Government Exhibit 19-A. Can you remind us who this is?

23 A Edgar Bayardo.

24 Q Who he is again?

25 A He is a commander within a unit in Mexican Federal

Madrigal - direct - Pilmar

977

1 Police.

2 Q What kind of information did he give you?

3 A He was providing us information regarding Garcia Luna AKA
4 Barbie, and Harold Poveda Ortega, AKA Conejo.

5 Q At the time, were those individuals associated with the
6 Chapo Mayo faction of the Sinaloa Cartel or the Beltran Leyva
7 fashion of the Sinaloa Cartel?

8 A Beltran Leyva fashion of the Sinaloa -- of the cartel.

9 Q Did he ever tell you the location of Rey Zambada?

10 A Never.

11 Q Did he ever tell you the location of Rey Zambada' son?

12 A No.

13 Q Did he ever tell you the location of warehouses in
14 Mexico City operated by the Sinaloa Cartel?

15 A No.

16 Q Did he ever tell you the location of where shipments of
17 drugs were being transported through the Mexico City Airport
18 by the Sinaloa Cartel?

19 A No.

20 Q Were there times when you shared sensitive law
21 enforcement information with the Federal Police?

22 A Yes.

23 Q What kind of information?

24 A Investigative information.

25 Q And what kind of investigative information?

Madrigal - direct - Pilmar

978

1 A Telephones, locations, vehicles, intelligence.

2 Q Was your office investigating Rey Zambada?

3 A Yes.

4 Q Why?

5 A We had a confidential source who had provided us a video
6 of a residence believed to be Rey Zambada's home in which we
7 saw a white Cherokee which belonged to Edgar Bayardo.

8 Q Did you see that video?

9 A I did.

10 Q Does it still exist -- withdrawn. Have you been able to
11 find it?

12 A No.

13 Q But you saw it back then?

14 A Yes.

15 Q And why was it significant to you that you saw a vehicle
16 believed to belong to Bayardo at Rey Zambada's house?

17 A Because Edgar Bayardo was a high-ranking official within
18 the Mexican Federal Police and it was worrisome that he was
19 meeting with a high-ranking member of the Sinaloa Cartel.

20 Q So after you saw this video of what was believed to be
21 Bayardo's vehicle at Rey Zambada's house, what did you do
22 next?

23 A Myself, along with my FBI partner, we -- we reported that
24 up the chain and informed our bosses.

25 Q What did you tell your boss?

Madrigal - direct - Pilmar

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1 A That we had information that Bayardo was meeting with
2 Rey Zambada.

3 Q And what did your boss say?

4 MR. MIEDEL: Objection.

5 THE COURT: Sustained. What's it for?

6 MR. PILMAR: May I have a sidebar, Your Honor, then?

7 THE COURT: Yup.

8 (Continued on the next page.)

9 (Sidebar conference.)

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Sidebar Conference

980

1 (The following occurred at sidebar.)

2 MR. PILMAR: It's just going to explain what
3 happened next. My understanding is --

4 THE COURT: What's the witness going to say?

5 MR. PILMAR: He is going to say my boss said I have
6 to report this to Victor Garay, and the witness had
7 anticipated he will be unhappy about that because he's
8 concerned that it will be leaked, and what I anticipate the
9 witness will say is after his boss said he was going to report
10 it to Garay, that after that, they were not able to get
11 Rey Zambada at this location and that leak was significant to
12 the DEA because he was a significant drug trafficker.

13 THE COURT: So it's not being offered for a purpose
14 other than the truth. There is no truth, it's just being
15 offered as background to show what he did next?

16 MR. PILMAR: Exactly.

17 THE COURT: All right.

18 MR. MCMANNUS: It is to show what he did next, and
19 also to the truth that he did send it to Garay and the
20 government's information --

21 THE COURT: No. If you want me to give an
22 instruction that it's not being offered to show the statement
23 was true, but just to explain what the witness did next, I
24 will give that instruction --

25 MR. MCMANNUS: I don't think there's a need for

Sidebar Conference

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1 that.

2 MR. PILMAR: And I will elicit he was not present
3 when video was given to Garay.

4 (End of sidebar conference.)

5 (Continued on the next page.)

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Madrigal - direct - Pilmar

982

1 (In open court; jury present.)

2 BY MR. PILMAR:

3 Q When we left off, you had told your supervisor about this
4 video of Bayardo at Rey Zambada's house. What happened next?

5 A My supervisor asked me to make stills of the video and
6 provide it to him because he was going to report it to the
7 Mexican Federal Police.

8 Q Who did he say he was going to report it to?

9 A To Victor Garay.

10 Q Were you present for that conversation?

11 A I was.

12 Q Sorry, were you present for the conversation between your
13 supervisor and Victor Garay?

14 A I wasn't.

15 Q After this happened, were you able to capture Rey Zambada
16 at this location?

17 A No.

18 Q Was this significant to the DEA that you were not able to
19 get Rey Zambada at that location?

20 A It was.

21 Q Why is that?

22 A Because he was a significant target and a significant
23 member of the Sinaloa Cartel.

24 Q Before, you mentioned Rey Zambada's arrest and that you
25 went to the scene shortly thereafter. Did you have any

Madrigal - direct - Pilmar

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1 conversations with Bayardo shortly before that?

2 A I did.

3 Q And can you tell us about that?

4 A When I was informed by a confidential source that
5 Rey Zambada was taken.

6 MR. MCMANNUS: Objection.

7 THE COURT: Again, it's just to explain why. It
8 doesn't mean it's true. Let me have the statement and then I
9 will instruct the jury.

10 Continue.

11 A I called Edgar Bayardo to ask if he knew that Rey Zambada
12 was in custody. And at that time, he reacted in a different
13 way. He was shocked and I could sense that he was worried and
14 he -- he resumed the conversation quickly.

15 THE COURT: Ladies and gentlemen, when the witness
16 testified that he was informed by a confidential source that
17 Zambada had been taken, that doesn't mean it's true that
18 Rey Zambada had been taken. That statement is just being
19 offered to you to explain what you witness did next. That's
20 the way you should understand it.

21 Please proceed.

22 MR. PILMAR: Thank you, Your Honor.

23 Q Was that conversation different than a typical
24 conversation you had had with Bayardo?

25 A Yes.

Madrigal - direct - Pilmar

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1 Q And how so?

2 A He was very engaged. So when we're working operations
3 together, he was very interactive and I found it strange but I
4 kind of figured it resulted because of what we had seen on the
5 video.

6 Q Can you tell us a little more detail about what you saw
7 when you got to the location of Rey Zambada's arrest?

8 A It was obvious an operation and possibly a firefight had
9 ensued. And there was a vehicle, like, almost to the side, it
10 appeared there had been some type of explosion, and there was
11 just paper, it -- the house was -- was very torn apart.

12 Q What agencies did you see at the scene of the arrest?

13 A Only police, city police, just taking care of the area.

14 Q Did you see any Federal Police?

15 A I didn't.

16 Q So as a result of these experiences with leaks, how did
17 you handle your foreign counterparts?

18 A Carefully.

19 Q Why was that?

20 A Because you didn't want to expose your intelligence or
21 your confidential sources.

22 MR. PILMAR: May I have a moment, Your Honor?

23 THE COURT: Yes.

24 MR. PILMAR: Your Honor, I think this is a good time
25 for a break.

Madrigal - direct - Pilmar

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1 THE COURT: Okay, if you want.

2 Ladies and gentlemen, we'll take our lunch hour.

3 Please come back at 1:30. Remember not to talk about the case
4 amongst yourselves or with anyone else. We'll see you in one
5 hour. Have a good lunch.

6 (Jury exits the courtroom.)

7 THE COURT: Recess one hour, except I wanted to
8 mention to everybody, because of a personal commitment, I've
9 got to leave about 15 minutes early today, so we'll stop at
10 4:15. See you after lunch.

11 (A luncheon recess was taken.)

12 (Continued on the following page.)

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Madrigal - direct - Pilmar

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1 A F T E R N O O N S E S S I O N

2 (In open court; jury not present.)

3 (Defendant present.)

4 THE COURT: Okay. Let's have the jury, please.

5 MS. KOMATIREDDY: Your Honor, on behalf of Mr.

6 Pilmar, there is a blanket of apologies for the next ten
7 minutes.

8 THE COURT: It's a generational thing, I found.

9 (Jury enters.)

10 THE COURT: All right. Everyone be seated.

11 Mr. Pilmar, please continue.

12 MR. PILMAR: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. PILMAR: (Continuing)

15 Q Good afternoon.

16 A Good afternoon.

17 Q Before the break, you were testifying about two different
18 incidents involving an individual named Ballardo.

19 Do you remember that?

20 A I do.

21 Q Now, during the first incident where you saw a video of
22 Ballardo's car and Rey Zambada's house, do you remember that
23 testimony?

24 A I do.

25 Q After your bosses told that you they would pass the

Madrigal - direct - Pilmar

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1 information to Mexican government officials, were you ever
2 able to arrest Rey Zambada at that location?

3 A No, we were not able to arrest him at that location that
4 was on the video.

5 Q If that information had not leaked, what would you have
6 done differently?

7 A I would have worked with the SIU, and I would have
8 conducted surveillance to verify if Rey Zambada was, indeed,
9 in that residence.

10 Q And what would have been the goal of conducting that
11 surveillance?

12 A To arrest Rey Zambada.

13 Q Approximately how long after that incident, if you
14 recall, was the second incident where Rey Zambada was
15 arrested?

16 A I don't recall exactly, but it was a short time after.

17 Q And you said that -- that was at a different location?

18 A Correct.

19 Q You said before visiting a location you called Ballardo;
20 right?

21 A I did.

22 Q How often did you normally speak to Ballardo?

23 A Often.

24 Q What would you generally talk about?

25 A Intelligence. Updates. Operations.

Madrigal - direct - Pilmar

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1 Q Why was it helpful to you as a DEA agent in Mexico to
2 talk to Ballardo about intelligence, information, and updates?

3 A Because we held a common interest in conducting
4 investigations and to be effective in investigations with
5 partners, especially foreign partners. It has to be a
6 continuation of communication so they could have the most
7 up-to-date intelligence so they could effectively do their
8 operation and/or their investigation.

9 Q What's the risks to your operations if information is
10 leaked by Mexican officials?

11 A The investigation may be compromised. The informants or
12 our techniques could be compromised and exposed, which could
13 result in the death of our confidential informant. Or in the,
14 let's say, changing of their tactics to avoid detection.

15 Q And is making sure that targets don't change their
16 tactics important to the DEA in Mexico?

17 A Extremely.

18 Q When you talked to Ballardo regularly, what was his
19 demeanor usually like?

20 A He was actually a pretty jolly guy. Very engaged. He --
21 every time that we were sharing information he was very, very
22 aggressive as far as following the leads.

23 Q And can you remind us which faction of the Sinaloa Cartel
24 would he share information about?

25 A He -- we worked the Edgar Valdez Villarrael, a/k/a Barbie

Madrigal - direct - Pilmar

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1 and Harold Povedo Ortega a/k/a Conejo, both members of Beltran
2 Leyva traffic drug trafficking organization.

3 Q And you said he never shared information about Rey
4 Zambada?

5 A Correct.

6 Q What was Ballardo's demeanor like when you called him
7 about Rey Zambada?

8 A He seemed shocked and short.

9 Q Why does this stand out in your mind?

10 A I wanted to talk to him, and I wanted -- really wanted to
11 focus on his reaction to kind of help me establish what the
12 informant had provided me, the confidential source. And by
13 his reaction of shock and completely different from his normal
14 demeanor, felt like there was some corroboration.

15 Q And is this one of the tactics you used to determine
16 whether you could trust certain Mexican police or government
17 officials?

18 A Yes.

19 MR. PILMAR: May I have a moment, Your Honor?

20 THE COURT: Yes.

21 (Pause.)

22 MR. PILMAR: No further questions.

23 THE COURT: All right.

24 Any cross?

25 MR. McMANUS: Yes, Your Honor.

Madrigal - cross - McManus

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1 CROSS-EXAMINATION

2 BY MR. McMANUS:

3 Q I am going to start with some arrests that happened while
4 you were stationed in Mexico.

5 Can you remind us again what years that was?

6 A From 2008 to 2015.

7 Q So I'm going to specifically start talking about arrests
8 of Los Zetas?

9 A Correct.

10 Q Are you familiar with the cartel group known as Los
11 Zetas?

12 A I am.

13 Q They were largely comprised of former military special
14 forces. Are you aware of that?

15 A Yes.

16 Q Their practice was to engage in lots of violence?

17 A Correct.

18 Q And beheadings, torture, murder?

19 A Yes.

20 Q And on March 7, 2011, do you remember when the SSP
21 arrested Marcos Carmona Hernandez, a/k/a Cabrigo?

22 A I don't.

23 Q You don't remember. Okay.

24 Do you know who Cabrigo is?

25 A I don't.

Madrigal - cross - McManus

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1 Q Do you know who the Zeta boss from Oaxaca was back?
2 2011?

3 A I don't.

4 Q Are you familiar with somebody named Favlio Mendez
5 Santiago?

6 A If you give me the nickname, I'll probably remember.

7 Q Z23.

8 A No.

9 Q Are you familiar with Tigre, who was a Zeta plaza boss
10 for Veracruz?

11 A I don't.

12 Q How about Mamito who was arrested on July 3rd, 2011 by
13 the SSP?

14 A I do.

15 Q And do you recall that two guns, a rifle, and some
16 cocaine and some currency were seized?

17 A I don't remember what was seized specifically, but I do
18 remember there was seizures.

19 Q And you also remember that the DEA and the SSP were
20 working together to locate Mamito since the previous December
21 before he got arrested?

22 A I do.

23 Q Would you agree he was a big catch?

24 A That's a big catch.

25 Q He was a founding member of Los Zetas?

Madrigal - cross - McManus

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1 A He was.

2 Q He was a close associate of Treviño Morales?

3 A Not necessarily.

4 Q Are you aware of who Treviño Morales is?

5 A I am.

6 Q Would you say that Mamito was a close associate of
7 somebody with the last name Lazcano?

8 A Yes.

9 Q And is Lazcano -- was Lazcano of the leaders of Los
10 Zetas?

11 A He was a leader of Los Zetas.

12 Q I am going to move on to cartel Jalisco Nueva Generación.
13 Are you familiar with that cartel?

14 A I am.

15 Q They were commonly referred to as CJNG?

16 A Yes.

17 Q Would you also describe them as an especially violent
18 cartel?

19 A I would.

20 Q They're responsible for multiple massacres?

21 A Yes.

22 Q On June 11th, do you remember the SSP arresting two
23 members of the cartel?

24 A What year?

25 Q 2010. I'm sorry.

Madrigal - cross - McManus

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1 A What were the names?

2 Q One of their names was Irving Eduardo Solano Vera, he was
3 in charge of the sicarios for the cartel.

4 A Do you have a nickname?

5 Q I do not.

6 A I don't remember him.

7 Q Are you familiar with the cartel the Independent Cartel
8 of Acapulco?

9 A I do.

10 Q They're commonly known as C-I-D-A or CIDA?

11 A I remember them.

12 Q Are you aware that they're known for filleting the faces
13 of their victims?

14 A Yes.

15 Q This is another especially violent cartel?

16 A Yes.

17 Q Even by cartel standards?

18 A Correct.

19 Q Do you remember on March 6, 2011, when the SSP arrested
20 somebody that went by the nickname El Padrino?

21 A I don't.

22 Q That's all right.

23 Are you aware of the Barredora cartel?

24 A I am.

25 Q And you're aware of their association with the CIDA cartel?

Madrigal - cross - McManus

994

1 A I am.

2 Q Do you remember on October 18, 2011, when the SSP
3 arrested Christian Arturo Hernandez Torin?

4 A Can I have a nickname?

5 Q I do not have a nickname. Will you -- sorry. Withdrawn.

6 Do you remember who the head of the cartel was at
7 that time?

8 A For the Barredora?

9 Q Correct.

10 A I don't.

11 Barredora and CIDA were splinter cartels after
12 Arturo Beltran Leyva's death, and these cartels started
13 fighting amongst themselves. That's why they became
14 ultraviolent and they were very unstructured, so they had
15 leaders changing all the time. So it was really hard to keep
16 up with.

17 Q Do you remember in 2011 when the SSP arrested one of
18 their leaders?

19 A Which one was it?

20 Q Christian Arturo Hernandez Torin.

21 A Sorry. I remember operations and I remember some
22 successes, but I can't remember off the top of my head their
23 names anymore.

24 Q You might remember that a year later the new head of the
25 cartel was also arrested by the SSP.

Madrigal - cross - McManus

995

1 Do you remember that?

2 A I remember it was --

3 MR. PILMAR: Your Honor, may we have a sidebar?

4 THE COURT: Okay.

5 (Sidebar.)

6 (Continued on next page.)

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Sidebar

996

1 (The following occurred at sidebar.)

2 THE COURT: What's up?

3 MS. REID: Your Honor, I think the point has been
4 made, and we haven't been objecting, but clearly these are
5 questions outside the witness' personal knowledge.

6 Also, the format of the question is a little odd. I
7 mean, he is just asking if he remembers facts, things that
8 mostly he doesn't know. I understand the approach. I think
9 it's the --

10 THE COURT: I don't.

11 I want to hear from defense counsel. Why is any of
12 this relevant?

13 MR. McMANUS: So, two things, Your Honor: First is
14 that all of these arrests are in his 3500 material. So he is
15 aware --

16 THE COURT: That doesn't make it relevant.

17 MR. McMANUS: The relevance is, it goes to the
18 strategy of the SSP.

19 THE COURT: Why is that relevant?

20 MR. McMANUS: That the reason that they might not be
21 arresting some people is the priority of the department to go
22 after the most violent cartels and their limited resources and
23 they can't devote all of their resources tackling everybody at
24 the same time.

25 THE COURT: And why is that relevant?

1 MR. McMANUS: Because it would go toward why the
2 witness is saying that some cartels were targeted over others.

3 THE COURT: And why is that relevant?

4 MR. DE CASTRO: The Government is arguing that our
5 client is the head of these law enforcement --

6 THE COURT: You can speak up.

7 MR. DE CASTRO: -- chose to target one cartel versus
8 the others. Our point has been that operationally they were
9 choosing who to arrest. They were making tons of arrests.

10 THE COURT: So what is it, a selective-prosecution
11 defense?

12 MR. DE CASTRO: No. The Government's impression is
13 that we are just not acting on any -- against any cartels that
14 are bribing us or whatever, but here, he is trying to
15 establish, and I think he is, with the witness that there was
16 a lot of arrests going on, a lot of splinter cartels and lots
17 of cartels and that can be in front of the jury.

18 THE COURT: And if it did, then what? How does that
19 relate here?

20 MR. DE CASTRO: Well, it allows us to argue against
21 the Government's claim that we were standing down against
22 certain cartels and other cartels. That's the claim.

23 THE COURT: You're going around in circles.

24 And so with standing down, how is that relevant to
25 this prosecution?

Sidebar

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1 MR. MIEDEL: I'll jump in.

2 Judge, because the Government's theory is that he
3 protected the Sinaloa Cartel, but it went after the Sinaloa
4 Cartels enemies, whereas there is a different explanation,
5 which what we're trying to explore. That is Government's
6 theory, which is why it's extremely relevant.

7 THE COURT: I'm sorry, everybody. I'm not getting
8 it at all. I don't understand how you are characterizing the
9 Government's theory. The Government's theory is that the
10 defendant was taking money to do favors for cartels.

11 MR. MIEDEL: No, for the Sinaloa Cartel.

12 THE COURT: Okay. Fine.

13 MR. MIEDEL: It's not other cartels.

14 THE COURT: Okay. And what does this show?

15 MR. MIEDEL: This shows he was going -- they had
16 different -- the reason he wasn't going after some cartels
17 versus others didn't have to do with the fact that he was
18 taking bribes from one and not the other. It's because they
19 had different law enforcement priorities.

20 MS. KOMATIREDDY: This witness is not testifying to
21 law enforcement priorities.

22 THE COURT: Look, I'm not going to pass on the
23 relevance of your theory, although I will acknowledge I'm
24 having a hard time understanding it, but I will say this
25 witness can't give you what he doesn't have. He doesn't seem

Sidebar

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1 to have what you're looking for.

2 MS. KOMATIREDDY: He's not an expert witness, Your
3 Honor.

4 THE COURT: I understand.

5 MS. KOMATIREDDY: He's not an encyclopedia of
6 arrests in the country.

7 THE COURT: I understand. All right.

8 MR. DE CASTRO: He did it on direct. He talked
9 about priorities and who they go after.

10 And second, the 3500 lays all these people out. We
11 didn't get this from other 3500.

12 THE COURT: I will repeat where I started: The fact
13 that it's in the 3500 does not make it relevant.

14 MR. DE CASTRO: That I know. But what Ms.
15 Komatireddy said is he's not an encyclopedia; he doesn't know
16 all of this, except they're his authored reports where we're
17 getting this from. So we didn't just go fishing.

18 THE COURT: I understand.

19 MR. DE CASTRO: That's the only point.

20 THE COURT: I understand, but you can ask him a few
21 more questions, but to the extent you wanted to make the point
22 that there's a lot of violent cartels out there, I think he's
23 given you that. I don't think he can give you anything more
24 than that.

25 So I will let you have a little bit, but then we

Sidebar

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1 have to move on.

2 MR. McMANUS: I can wrap up with the other cartels,
3 Your Honor.

4 THE COURT: Let's do that.

5 MR. McMANUS: Thank you, Your Honor.

6 (End of sidebar conference.)

7 (Continued on next page.)

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Madrigal - Cross - McManus

1001

1 (In open court.)

2 THE COURT: Please proceed.

3 Q So again we are going to stay focused on when you were
4 stationed in Mexico from 2008.

5 A Okay.

6 Q How long did you stay there?

7 A Almost seven and a half years.

8 Q Now, on your direct you had mentioned the escape of El
9 Chapo?

10 A I did.

11 Q And you mentioned that that was in 2015?

12 A Correct.

13 Q Was Genaro Garcia Luna the head of the SSP at that point?

14 A I believe he wasn't. I can't recall.

15 Q Do you remember an administration change in 2012?

16 A I do.

17 Q And it's common for cabinet level officials to be changed
18 with new administrations; correct?

19 A It is.

20 Q So Mexican law enforcement went after their own agents
21 with ties to the cartels; that's also correct?

22 A That is correct.

23 Q It wasn't just low-level agents either, was it?

24 A No.

25 Q Do you recall on July 31, 2008, when they arrested

Madrigal - Cross - McManus

1002

1 Fernando Rivera Hernandez?

2 A I do.

3 Q And do you remember on July 30 -- withdrawn.

4 Do you also remember in 2008 when -- sorry.

5 Withdrawn.

6 Do you remember on July 31, 2008, when Milton Celia
7 Perez was arrested?

8 A I do.

9 Q And he was also in the Mexican military; correct?

10 A He was.

11 Q And he was a military officer?

12 A He was.

13 Q And both of these individuals were arrested for working
14 for the Beltran Leyva organization; correct?

15 A Correct.

16 Q And Roberto Garcia was arrested as well; correct?

17 A Correct.

18 Q And you had mentioned the name, I believe on direct, of
19 Edgar Ballardo Del Villar?

20 A Correct.

21 Q He was a corrupt SSP officer; correct?

22 A He was.

23 Q And he was also arrested; correct?

24 A Correct.

25 Q So you would agree with me that the Government of Mexico

Madrigal - Cross - McManus

1003

1 at the time you were there, from 2008 to 2012, they were
2 arresting dangerous cartel members?

3 A I agree.

4 Q You also agree that they were arresting members of their
5 own law enforcement that were aiding the cartels; correct?

6 A Those three specific individuals that you mentioned were
7 done in coordination with PGR as part of Operation in PGR, and
8 there was a unilateral operation with a PGR at that time.
9 They ran lead on that.

10 Q And PGR is part of the government in Mexico; is that
11 correct?

12 A Correct. It's Mexican federal prosecutors office.

13 Q So I think you will notice that none of the previous
14 arrests I mentioned included the Beltran Leyva organization or
15 Sinaloa.

16 A Can you further explain that?

17 Q There is no explanation. I will get to a question.

18 I will start with the Sinaloa Cartel.

19 Do you recall on March 18, 2009, when the Mexican
20 Army arrested Vincente Zambada Niebla.

21 A I do.

22 Q And six others were arrested?

23 A Correct.

24 Q And they seized five high-caliber rifles?

25 A I believe they did.

Madrigal - Cross - McManus

1004

1 Q And are you aware that Vincente was the son of El Mayo?

2 A He was.

3 Q Would you agree that El Mayo was one of the heads of the
4 Sinaloa Cartel?

5 A I agree.

6 Q You are also aware that Zambada Niebla was extradited to
7 the United States?

8 A I am.

9 Q Are you aware of the June 15, 2010, arrests of seven more
10 members of the cartel by any chance?

11 A There were so many arrests that if you tell me who it
12 was, I'll be able to confirm.

13 Q But there were a lot of arrests of Sinaloa Cartel
14 members; correct?

15 A During that period there was arrests in general of
16 several cartels.

17 Q On January 6, 2011, do you remember the SSP arrest of
18 Alfredo Vasquez Hernandez?

19 MR. PILMAR: Objection.

20 THE COURT: First ask him who that was.

21 Q Do you know Alfredo Vasquez Hernandez?

22 A Do you have a nickname?

23 Q He does not have a nickname, but he was in a joint
24 investigation with the DEA in 2011.

25 MS. KOMATIREDDY: Objection, Your Honor.

Madrigal - Cross - McManus

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1 THE COURT: Only one of you can object.

2 MS. KOMATIREDDY: Yes, Your Honor.

3 THE COURT: Secondly, sustained. Okay.

4 You can't do that. He knows or he doesn't know.

5 Q You had mentioned extraditions --

6 A I did.

7 Q -- on your direct; correct?

8 A Correct.

9 Q And I think you mentioned that a Mexican judge has to
10 sign off on whether somebody's extradited; correct?

11 A Correct.

12 Q Are you aware that once the judge decides if somebody can
13 be extradited that it is then the decision of the executive
14 branch if that person will be extradited?

15 A I'm not too familiar with the process after the judge
16 renders a decision.

17 Q So you're not familiar with the Mexican -- the specific
18 article of the Mexican Constitution that outlines that the
19 executive branch makes the final decision?

20 MR. PILMAR: Objection.

21 A I'm not.

22 THE COURT: Is that an objection?

23 MR. PILMAR: Yes.

24 THE COURT: Louder, please.

25 Sustained.

Madrigal - Cross - McManus

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1 Why would you think he is? That's not what he
2 testified about on direct.

3 Q You work in law enforcement; that's correct?

4 A I do.

5 Q Is it fair to say that the United States has
6 significantly more sources at its disposal to target organized
7 crime than Mexico does?

8 MR. PILMAR: Objection.

9 THE COURT: If you know the answer, you can answer.

10 A In the U.S., we have more access. In foreign countries,
11 I believe, at times they have more access than we do.

12 Q Would you agree that in the United States law enforcement
13 prioritizes their targets?

14 A The -- yes.

15 Q And you agree that in an investigation it takes time to
16 build information?

17 A I do.

18 Q And there's a strategy behind who a law enforcement
19 entity targets?

20 A There is.

21 Q And you agree that public safety is one of those factors
22 when deciding who to target?

23 A Correct.

24 Q Will you agree that the first group of cartels that I
25 mentioned today were the most violent of the cartels in

Madrigal - Cross - McManus

1007

1 Mexico?

2 A The first group as the Zetas?

3 Q The Zetas, CJNG, CIDA.

4 A I believe they were all very dangerous because they were
5 competing with each other, and they were using tactics of
6 trying to scare each other to see who would go further. So it
7 is escalating.

8 Q I believe on cross you mentioned that these were splinter
9 groups.

10 A Yes.

11 Q And they splintered off from larger cartels?

12 A Correct.

13 Q I'm sorry. These were the cartels that were the most
14 violent in Mexico at the time; correct?

15 A They were part of the most violent, yes.

16 Q And the Government of Mexico effectively worked to
17 neutralize licensed these cartels; correct?

18 MR. PILMAR: Objection.

19 THE COURT: Hang on one second.

20 You want his opinion?

21 MR. MIEDEL: Yes.

22 THE COURT: I will allow this one question.

23 Q Would you like me to ask it again?

24 A Yes.

25 Q You'll agree that Mexico efficiently worked against these

Madrigal - Cross - McManus

1008

1 violent cartels?

2 A I could say that they did target these cartels.

3 Q And you'll agree that Sinaloa and the Beltran Leyva
4 organization were far bigger than these cartels; correct?

5 A Than the Zeta Cartel, I believe they were all -- the Zeta
6 Cartel at that time was probably the fastest growing cartel.

7 Q Correct, but CJNG and Zeta were not?

8 MR. PILMAR: Objection.

9 THE COURT: He has given you his opinion on it.

10 Q So, if you are aware, are you aware that the SSP was
11 responsible for targeting Los Zetas specifically?

12 A No, I wasn't.

13 Q Los Zetas, you had already testified were made up of
14 former Mexican military special forces?

15 A Correct.

16 Q So it makes sense that somebody besides the Mexican
17 military would be targeting this organization; correct?

18 MR. PILMAR: Objection.

19 THE COURT: Sustained.

20 Q So, again, you came to Mexico in 2008; correct?

21 A Correct.

22 Q Are you aware if this is after DEA Administrator Karen
23 Tandy left her position?

24 A I believe so.

25 Q I'd like to show you some pictures.

Madrigal - Cross - McManus

1009

1 MR. MCMANUS: Ms. Gotlib.

2 Q I'd like to show you first what has been marked as
3 Defense Exhibit A for identification.

4 Do you recognize this?

5 A I do.

6 Q Who are the people in this picture?

7 A It's DEA administrator -- former Administrator Karen
8 Tandy and Genaro Garcia Luna.

9 Q Would you say that this fairly depicts both of those two
10 people?

11 A It does.

12 MR. McMANUS: Your Honor, I would ask that Defense
13 Exhibit A be moved into evidence.

14 MR. PILMAR: No objection.

15 THE COURT: No objection.

16 Received.

17 (Defense Exhibit A received in evidence.)

18 Q So you again -- you came to Mexico. I'm sorry.

19 MR. McMANUS: Ms. Gotlib, oh, yeah, you can take
20 that down.

21 Q So, again, you came to Mexico in 2008.

22 Was this before or after DEA Administrator Marie
23 Leonhart came to Mexico on an official visit?

24 A It was before.

25 Q Are you aware of what the topic of conversation was?

Madrigal - Cross - McManus

1010

1 MR. PILMAR: Objection.

2 THE COURT: Sustained.

3 Q You were in Mexico for Mr. Garcia Luna's meeting with
4 U.S. Attorney General Eric Holder in 2009; correct?

5 A Correct --

6 MR. PILMAR: Objection.

7 THE COURT: I will allow this question.

8 MR. McMANUS: I'd like to show you a picture for
9 identification marked as Defense Exhibit B, please.

10 Q Do you recognize this picture?

11 A I know who is in it.

12 Q And who are they?

13 A Genaro Garcia Luna and Eric Holder, Attorney General.

14 Q I'm sorry?

15 A Attorney General.

16 MR. PILMAR: No objection, Your Honor.

17 THE COURT: Received.

18 (Defense Exhibit B received in evidence.)

19 Q So Eric Holder is the top person at the Department of
20 Justice; is that correct?

21 A Correct.

22 Q And that is who the DEA reports to; is that correct?

23 MR. PILMAR: Objection.

24 THE COURT: I'll allow it if he knows.

25 A The DEA reports to the administrator who works for the

Madrigal - Cross - McManus

1011

1 Department of Justice.

2 Q Were you at the meeting between Genaro Garcia Luna and
3 Attorney General Holder?

4 A I wasn't.

5 MR. McMANUS: Ms. Gotlib, you can take that down.

6 Q I'd like to show you another picture marked Defense
7 Exhibit E, please.

8 MR. PILMAR: No objection.

9 THE COURT: Received.

10 (Defense Exhibit E received in evidence.)

11 Q Were you at the meeting between -- sorry. Withdrawn.

12 Are you aware that Genaro Garcia Luna met with
13 President Obama in 2009?

14 A I wasn't aware.

15 Q So you were not at that meeting?

16 A No.

17 Q Or the meeting in 2009 with Marie Leonhart again?

18 A I attended one meeting where she was present in Mexico.

19 Q I'd like to show you a picture marked Defense Exhibit D,
20 please.

21 MR. PILMAR: No objection.

22 THE COURT: Received.

23 (Defense Exhibit D received in evidence.)

24 Q Were you present at the meeting between Genaro Garcia
25 Luna and Hillary Clinton?

Madrigal - Cross - McManus

1012

1 A I wasn't.

2 Q Are you aware of what position Hillary Clinton had in
3 April of 2011?

4 A I was.

5 Q And what was that position?

6 A Secretary of State.

7 Q Are you familiar with something known as the Merida
8 Initiative?

9 A I am.

10 Q Would you agree with me that the Meredia Initiative was
11 an agreement between the United States and Mexico to send
12 equipment, like tanks and helicopters to Mexico?

13 A I don't know about the tanks, but I know it was a joint
14 effort.

15 Q And it was equipment being sent?

16 A Yes.

17 Q And law enforcement was being trained as part of the
18 agreement?

19 A Correct.

20 Q You'll agree that there was not a transfer of money
21 directly from the United States to Mexico; correct?

22 MR. PILMAR: Objection.

23 Q Are you aware?

24 MR. PILMAR: Objection.

25 A I'm not aware.

Madrigal - Cross - McManus

1013

1 THE COURT: I will allow it.

2 Q Are you familiar -- withdrawn.

3 Are you aware as part of the Meredia Initiative
4 members the United States executive branch came down to Mexico
5 to evaluate the progress that Mexican --

6 MR. PILMAR: Objection.

7 THE COURT: You can answer if you are aware.

8 A I wasn't.

9 Q I'm sorry. Can you repeat that?

10 A I wasn't.

11 Q Can I show you a picture for identification marked
12 Defense Exhibit --

13 MR. McMANUS: Apologize, Your Honor.

14 Q -- Defense Exhibit C.

15 MR. PILMAR: No objection.

16 THE COURT: Received.

17 (Defense Exhibit C received in evidence.)

18 Q As part the Merida Initiative, are you aware of the
19 United States Congress signing the bill each year?

20 MR. PILMAR: Objection.

21 THE COURT: He can answer if he is aware.

22 A I'm not aware.

23 THE COURT: I just think you've got the wrong
24 witness. Right?

25 He doesn't know what you want him to know.

Madrigal - redirect - Pilmar

1014

1 MR. McMANUS: I think you might be right, Your
2 Honor.

3 No further questions.

4 THE COURT: Any redirect?

5 MR. PILMAR: Briefly, Your Honor. Thank you.

6 REDIRECT EXAMINATION

7 BY MR. PILMAR:

8 Q You were asked on cross-examination some questions about
9 the arrest of Vincente Zambada. Do you remember that?

10 A I do.

11 Q Can you remind us of who he is again?

12 A He was -- he is the son of Ismael Zambada Garcia, the
13 leader of the Sinaloa Cartel.

14 Q Are you aware of the circumstances that led up to his
15 arrest?

16 A I am.

17 Q What was were those circumstance?

18 A He was arrested in Mexico City by Sedena.

19 Q And what is Sedena?

20 A The Mexican Army.

21 Q Had Vincente Zambada reached out to the DEA prior to his
22 arrest?

23 A Yes.

24 Q And that was the army, not SSP, who eventually arrested
25 him?

Madrigal - redirect - Pilmar

1015

1 A Correct.

2 MR. PILMAR: I'd like to show the witness for
3 identification Government Exhibit 1710.

4 Q Do you recognize the individuals in this photograph?

5 A I do.

6 Q Who are they?

7 A Hillary Clinton and President Putin.

8 Q Who is President Putin the president of?

9 A Of Russia.

10 Q Does this appear to be a fair and accurate depiction of
11 these individuals?

12 A Yes.

13 Q Your Honor, I'd ask to move 1710 into evidence.

14 MR. McMANUS: I object, Your Honor.

15 THE COURT: I'm going to sustain the objection.

16 Nothing stops you from arguing the obvious to the
17 jury. Okay? You don't need this picture for that.

18 MR. PILMAR: Okay. No further questions.

19 THE COURT: All right. You may step down.

20 Thank you very much.

21 THE WITNESS: Thank you.

22 (Witness steps down.)

23 THE COURT: The Government's next witness, please.

24 MR. AMIR: The Government calls Todd Bagetis.

25 THE COURTROOM DEPUTY: Raise your right hand.

Bagetis - direct - Amir

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1 (Witness sworn.)

2 THE COURTROOM DEPUTY: Please be seated. State and
3 spell your name for the court reporter.

4 THE WITNESS: Todd Bagetis, T-O-D-D. B-A-G-E-T-I-S.

5 MR. AMIR: May I inquire?

6 THE COURT: Please.

7 **TODD BAGETIS,**

8 called as a witness, having been first duly

9 sworn/affirmed, was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. AMIR:

12 Q Good afternoon, Mr. Bagetis.

13 A Good morning, sir, or good afternoon.

14 Q What do you do for a living?

15 A I own a large company in Alaska, provide farm equipment
16 and supplies to farmers.

17 Q How long have you owned that company?

18 A Since 2018.

19 Q Before that, what did you do?

20 A I was enlisted to officer in the United States Coast
21 Guard.

22 Q How long did you work at the United States Coast Guard?

23 A Approximately 22 years.

24 Q Did you retire?

25 A Yes, sir.

Bagetis - direct - Amir

1017

1 Q What year?

2 A 2020.

3 Q Prior to your retirement, what were your responsibilities
4 with the U.S. Coast Guard?

5 A I was ultimately second in command of a large unit in
6 Alaska, Prince William Sound, captain of the port zone in
7 charge of security, safety for the port.

8 Q Directing your attention to September 2008, where were
9 you assigned at that time?

10 A I was assigned to Coast Guard Tactical Law Enforcement
11 Team South located in Opa-Locka, Florida.

12 Q At some point in September 2008, did you go out on
13 deployment?

14 A Yes, sir.

15 Q I would like to direct your attention to September 13,
16 2008.

17 What ship were you on board that day?

18 A I was on board the *U.S.S. McInerney*.

19 Q Approximately where were you?

20 A Eastern Pacific Ocean; we had a deployment.

21 Q I'd like to show you a map marked as Government
22 Exhibit -- actually, before I go to the exhibit, I believe we
23 will move to admit on consent several government exhibits.

24 Government Exhibits 201-1 through 201-14.

25 THE COURT: Received.

Bagetis - direct - Amir

1018

1 (Government's Exhibits 201-1 through 201-14 received
2 in evidence.)

3 MR. AMIR: Thank you.

4 Q I'd like to show you what has been marked admitted in
5 evidence as Government Exhibit 201-14.

6 Do you recognize this?

7 A Yes, sir.

8 Q What is this?

9 A The red dot right there is my approximate location when I
10 was on deployment and patrol.

11 Q And were you on patrol that day?

12 A Yes, sir.

13 Q And did you see anything suspicious when you were on
14 patrol on September 13, 2008?

15 A We encountered a suspicious vessel that was deemed a
16 self-propelled, semi-submersible.

17 Q Can you describe for the jury what is a self-propelled
18 semi-submersible?

19 A It is between a low-profile vessel and a submarine.
20 Really low, skims the surface of the water.

21 Q And had you had experiences with semi-submersibles in the
22 past?

23 A Yes, sir.

24 Q Can you describe those experiences for the jury?

25 A They are extremely dangerous to board because of the low

Bagetis - direct - Amir

1019

1 profile. It just barely skims the surface of the water; not
2 quite fully a submarine, but pretty close to it; and they're
3 used to transport narcotics from one location to another
4 location. Low profile, so they are not detected easily by
5 radar and by visual.

6 Q And when you encountered this semi-submersible, what was
7 your position on the patrol?

8 A We were about 300 to 350 nautical miles from shore.

9 Q And what --

10 A Guatemala, I think, was the closest point of land at the
11 time.

12 Q And what was your role on the patrol?

13 A I was an officer in charge and deployable team leader of
14 the deployment.

15 Q After you saw the semi submersible, what did you do?

16 A Prepared the boarding team. It's a big safety risk for
17 everybody involved and also the vessel that we're boarding.

18 Q You mentioned safety risks.

19 Can you describe some of the risks for boarding a
20 semi-submersible?

21 A It's a low-profile. So when you are out in the middle of
22 the ocean, there's nobody to rescue you. A lot of times -- so
23 huge waves, surf, wind. It is a low-profile vessel, so a lot
24 of times when you board, there's waves that are pretty much
25 crashing on top of you.

Bagetis - direct - Amir

1020

1 Q Are you familiar with the term scuttle?

2 A Yes, sir.

3 Q What is that?

4 A A lot of these vessels included the SPSS that we
5 encountered, they have scuttling devices on board. You can
6 think of it as a large faucet. It's a valve inside. You turn
7 the valve, and water floods the vessel to sink it.

8 Typically, it's high-powered. Sometimes they even
9 run off a generator. I've seen them sink in less than two
10 minutes when the scuttling device is deployed.

11 Q Based on your training and experience, what's the purpose
12 of scuttling a ship?

13 A It's to sink the vessel to get rid of evidence and
14 anything else that's on board.

15 Q So I'd like to direct your attention to the time where
16 you decided to board the semi-submersible. Were you able to
17 monitor what was happening as the team boarded?

18 A Yes, sir.

19 Q How?

20 A By visual. Camera live feed and by radio.

21 Q And were you a member of the team boarding the
22 semi-submersible?

23 A I was the team leader on board the *U.S.S. McInerney*, and
24 my team was deployed ultimately en route to the SPSS.

25 Q And was there a video made of the initial approach to the

Bagetis - direct - Amir

1021

1 SPSS?

2 A Yes, sir.

3 Q Have you reviewed that video prior to today?

4 A Yes.

5 Q I'd like to show you what's in evidence as Government
6 Exhibit 201-2. I'll ask Ms. Donovan to play the first ten
7 seconds. And after it stops playing, narrate what you saw.

8 Sorry, just one moment.

9 (Video playing.) (Video stopped.)

10 Q And can you describe for the jury what we just saw?

11 A That's my boarding team and my boarding officer on board
12 a rigid hull inflatable boat, otherwise known as a RHIB. Its
13 basically a small both used to board other vessels in the high
14 seas. It's pretty -- it's a safe platform to board from one
15 vessel to another vessel.

16 Q And there was a bright light in the video.

17 What was that?

18 A Those were flares we shot out. Typically, when we make
19 boardings at nighttime, we shoot out flares. It's for our
20 safety. Vessels like this are known to have weapons on board.
21 Ultimately, for the safety of my team.

22 MR. AMIR: And Ms. Donovan, can we play the next 20
23 seconds.

24 (Video playing.) (Video stopped.)

25 MR. AMIR: For the record, the video stopped at 30

Bagetis - direct - Amir

1022

1 seconds.

2 Q Mr. Bagetis, do you see a rectangle in the center of the
3 screen?

4 A Yes.

5 Q What is that?

6 A It's almost in the middle of the SPSS. It's a lookout
7 hatch. There is a couple of glass windows right there, and
8 there is a man hatch, like a mini door. And that's how crew
9 members go in and out.

10 Right inside that is the helm, which is in the
11 maritime world a steering wheel. And that's how you control
12 the SPSS.

13 MR. AMIR: Ms. Donovan, if you can continue playing
14 until the two-minute mark?

15 (Video playing.) (Video stopped.)

16 Q And can you describe what happened in the video now?

17 A We boarded the SPSS from our starboard side, which is our
18 right side of the RHIB; and we ultimately went on the left
19 side, the port side of the SPSS.

20 Q And you mentioned SPSS. What is that?

21 A Self-propelled semi-submersible vessel.

22 We went on board, and we identified ourself. It's
23 a -- it's really not a clear video. If you shut off the
24 light, you can see.

25 THE COURT: Let's have the lights down, please.

Bagetis - direct - Amir

1023

1 A You can see the water. That's actually water on top of a
2 deck right there. After we identified ourselves, we tapped on
3 the glass. We gave verbal command. The crew on board, they
4 put the SPSS in hard reverse, and they made maneuvers right to
5 left, similar to like if we were in the -- on the back of a
6 pickup truck with the tailgate down going -- throttle down and
7 going reverse going back and forth.

8 Obviously, they were trying to throw our crew off
9 and to kill us.

10 MR. AMIR: Ms. Donovan, can you play the next 16
11 seconds of this video.

12 (Video playing.)

13 Q Mr. Bagetis, can you describe what you saw in the video
14 now?

15 A Yes. One of the crew members -- that's the man hatch I
16 was telling you about where the steering wheel is right in
17 there -- one of the crew members opened up the hatch.

18 At that time we were given verbal command to stop,
19 to come out, identifying ourselves.

20 We had a linguist on with us -- or my boarding
21 officer was the linguist, so he was stating those verbal
22 commands in various languages.

23 Q Were there any other crew members inside the
24 semi-submersible?

25 A A total of four crew members.

Bagetis - direct - Amir

1024

1 Q Were you able to get them off?

2 A Eventually all four of them came off, sir.

3 MR. AMIR: Ms. Donovan, you can take down the video.

4 Thank you.

5 Q Mr. Bagetis, did you determine if the semi-submersible
6 was associated with any country?

7 A No, sir. It was deemed a stateless vessel.

8 Q What is the significance of a vessel being stateless?

9 A A vessel is claimed a stateless when it doesn't have a
10 country of origin. And because of that, you can board the
11 vessel. It claims no country; it's not from a country.

12 Q Did you get a look at the semi-submersible in daylight?

13 A Yes, sir.

14 Q I'd like to show you what's been admitted in evidence as
15 Government Exhibit 201-1.

16 Do you recognize this?

17 A Yes, sir.

18 Q Can you describe what we are looking at here?

19 A It's an SPSS.

20 Q Can you just point out the various features of the SPSS
21 for the jury?

22 A Yes. This is the SPSS we boarded, however, it's a photo
23 taken after the contraband was removed. It's tough to tell in
24 the photo, but there's actually about four feet of freeboard
25 between the water and the top of the SPSS, the deck.

Bagetis - direct - Amir

1025

1 When it was loaded, the deck was flush with the
2 waterline.

3 A In the back of the SPSS in the stern area, the rear of it
4 on the top right -- I don't know if I can circle this.

5 Q Okay.

6 A Right there, you have exhaust. We call them snorkels,
7 but you have exhaust and you have an air intake. And that's
8 where my -- when they were going reverse, back, right, and
9 left, that's where my crew was hanging on, to my boarding
10 team.

11 Props are down there.

12 Q What are props?

13 A Propellers for a vessel, SPSS.

14 And they spin really fast. So being in the Coast
15 Guard for 22 years we have encountered a lot of facilities and
16 major injuries; people getting washed up in the props.

17 Q Can you describe some of the other features, like the
18 manholes on the other side?

19 A Right here is -- whoops.

20 Right there is where the lookout glass is. And we
21 were tapping on that, and that's where the crew exited the
22 SPSS. And that's where the steering wheel helm is located,
23 and the control throttles.

24 Q What about the other two?

25 A Both of those little dots right there are storage

Bagetis - direct - Amir

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1 compartments.

2 Q Okay.

3 MR. AMIR: Ms. Donovan, you can take down this
4 photo. Thank you.

5 Q I'd like to show you what has been marked in evidence as
6 Government Exhibit 201-3.

7 Do you recognize this?

8 A Yes, sir.

9 Q What do we see here?

10 A Do you mind dimming down the lights, sir?

11 Q Sure.

12 THE COURT: Would you mind putting the lights down,
13 please.

14 A That's a steering compartment where the man hatch was.
15 So when, as we saw in one of the -- in the video and one of
16 the other photos, when you open up that compartment and looked
17 down, that's what you see. You could just barely see it on
18 the bottom left is the steering wheel or the helm. It's wood.
19 It's on bottom left. So when you look down there, it's easy
20 to see the bales of cocaine plain view from the deck, which
21 are those black bales with the different colors on them.

22 Q Did you conduct any tests or examinations of the bales?

23 A Yes, sir. We performed a narcotic identification kit
24 test by the manufacturers operating conditions. And we
25 performed that test twice, and it was positive for cocaine.

Bagetis - direct - Amir

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1 Q What did you do with the cocaine after you determined
2 what was inside it?

3 A We confiscated the cocaine and maintained chain of
4 custody.

5 Q And I'd like to show you what has been marked as
6 Government Exhibit 201-6. Do you recognize this?

7 A Yes, sir.

8 Q Can you describe what we are looking at here?

9 A Two of my team members on the bow of the vessel, and
10 they're looking down one of the storage hatches that at
11 cocaine.

12 Q Just for clarity sake, that's Government Exhibit 201-6 in
13 evidence.

14 What's depicted in the background of the ship behind
15 the men?

16 A The vessel on the right side, that's the U.S.S.
17 McInerney, and my two team members are standing on the SPSS.

18 Q What did you do with the SPSS itself?

19 A We seized it as evidence, maintained chain of custody,
20 and we towed it in Costa Rica to handed off to another federal
21 agent.

22 Q And the bales of cocaine, where did they ultimately go?

23 A We brought all the bales of cocaine, a total of 237 bales
24 on board the U.S. McInerney.

25 Q And do you recall the total weight of the bales?

Bagetis - direct - Amir

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1 A Yes, sir --

2 Q Approximately.

3 A 237 bales each bale containing -- some had 20 kilos of
4 cocaine, some 24, and there was a few at 30 -- for a total of
5 14,000 pounds of cocaine.

6 MR. AMIR: One moment, please no further questions
7 thank you.

8 THE COURT: All right. Cross?

9 MR. DE CASTRO: No.

10 THE COURT: You may step down.

11 Thank you very much.

12 Government's next witness.

13 MS. REID: Your Honor, I would like to just read
14 from Government 901, the stipulation very briefly.

15 THE COURT: Read slow.

16 MS. REID: Yes. I'm reading from paragraph 1.

17 On September 13, 2008, United States Coast Guard
18 officers seized approximately 4,716 kilograms of cocaine from
19 a submarine. The substance seized was delivered to the Drug
20 Enforcement Administration Southeast laboratory in
21 substantially the same condition as at the time it was seized.

22 Government Exhibit 201-11 is a lab report prepared
23 by Deepa Van Millie, a duly qualified chemist employed by the
24 DEA's Southeast laboratory.

25 If called to testify on this subject, Ms. Van Millie

Bagetis - direct - Amir

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1 would testify she performed a chemical analysis of the
2 substance seized on September 13, 2008 and determined that it
3 contains cocaine hydrochloride, a Schedule II controlled
4 substance.

5 And, Your Honor, I'd also like to read paragraph 3.
6 I will go slowly.

7 On March 18, 2007, United States Coast Guard
8 officers seized at least 15,147 kilograms of cocaine from a
9 shipping vessel named the Gatun, a sample of which was marked
10 as Government Exhibit 203-21. The substance seized was
11 delivered to the DEA Southeast laboratory in substantially the
12 same condition as at the time it was seized.

13 Government Exhibits 203-28 and 203-29 are lab
14 reports prepared by Carlos J. Diaz, a duly qualified chemist
15 employed by the DEA Southeast laboratory.

16 If called to testify on this subject, Mr. Diaz would
17 testify that he perform a chemical analysis of two samples of
18 the substance containing Government Exhibit 203-21 and
19 determine that they contained cocaine hydrochloride, a
20 Schedule II controlled substance.

21 Thank you, Your Honor.

22 THE COURT: Okay.

23 MS. KOMATIREDDY: The Government calls Francisco
24 Canedo Zavaleta.

25 THE COURT: Okay.

Bagetis - direct - Amir

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1 THE COURTROOM DEPUTY: I ask that you raise your
2 right hand.

3 (Witness sworn.)

4 THE COURTROOM DEPUTY: You can be seated.

5 State and spell your name for the court reporter,
6 and you can also adjust the microphone.

7 THE COURT: You may inquire.

8 THE WITNESS: My name is Francisco Canedo Zavaleta.
9 Francisco Canedo Zavaleta, F-R-A-N-C-I-S-C-O, C-A-N-E-D-O,
10 Z-A-V-A-L-E-T-A.

11 MS. KOMATIREDDY: May I inquire, Your Honor?

12 THE COURT: Please.

13 **FRANCISCO CANEDO ZA VALETA,**

14 called as a witness, having been first duly
15 sworn/affirmed, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. KOMATIREDDY

18 Q Good afternoon, Señor Zavaleta.

19 A Good afternoon, everyone.

20 Q Until recently, what was your profession?

21 A My profession was ministerial federal police officer.

22 Q How long were you a federal police officer?

23 A From December 1993 to November 10, 2022.

24 (Continued on next page.)

25

Zavaleta - direct - Komatireddy

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1 BY MS. KOMATIREDDY: (Continuing.)

2 Q In what country were you a federal police officer?

3 A Mexico.

4 Q At the time that you became a federal police officer in
5 1993 in Mexico, what were the various federal police agencies
6 in Mexico?

7 A So, at the federal level, because you also have them at
8 the state level and at the local level, but at the federal
9 level, you have the Judicial Federal Police under the Attorney
10 General's Office of the Republic. Then also, the Federal
11 Highway Police, that was part of the Secretary for
12 Communications and Transportation, which later on became part
13 of the Preventative Federal Police, which is part of the
14 Federal Police part of the Secretary for Social Security.

15 MS. KOMATIREDDY: Sorry, can we have an interpreter
16 correction. Secretary of Public Security?

17 A It was incorporated into the Secretary of Public
18 Security.

19 Q Anything else?

20 A The next one is CISEN, which functions as national
21 security and espionage, immigration, that deals with issues of
22 immigrants, and the tax police that deals with the prevention
23 of tax crime.

24 Q Which agency did you join?

25 A I joined the Federal Judicial Police in the antidrug

Zavaleta - direct - Komatireddy

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1 trafficking area.

2 MS. KOMATIREDDY: If I could please show the witness
3 only Government Exhibit 709.

4 Q Mr. Zavaleta, do you recognize the individual in that
5 photograph?

6 A Yes.

7 Q Who is it?

8 A It's me.

9 MS. KOMATIREDDY: The Government moves 709 into
10 evidence.

11 MR. DE CASTRO: No objection.

12 THE COURT: Received.

13 (Government Exhibit 709 was received in evidence.)

14 Q Now that the jury can see the photograph, can you please
15 tell us approximately when was this photograph taken?

16 A It's from approximately 1994.

17 Q Is that right after you joined the Federal Judicial
18 Police?

19 A Yes, the antidrug trafficking Judicial Federal Police.

20 Q Where was this photograph taken?

21 A Chihuahua.

22 Q What are you wearing?

23 A It's the uniform that was assigned to my area.

24 MS. KOMATIREDDY: If I could please show the witness
25 only Government Exhibit 713.

Zavaleta - direct - Komatireddy

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1 Q Mr. Zavaleta, do you recognize that document?

2 A Yes.

3 Q Can you describe, generally, what kind of document it is?

4 A It is my document that assigned me to my post and
5 information on my remunerations.

6 Q Is this a true and accurate copy of your assignment and
7 remuneration document?

8 A That's right.

9 MS. KOMATIREDDY: The Government moves 713 and its
10 translation 713-T into evidence.

11 MR. DE CASTRO: Objection.

12 THE COURT: Want a sidebar?

13 MR. DE CASTRO: Sure.

14 (Continued on the next page.)

15 (Sidebar conference.)

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Sidebar

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1 (The following occurred at sidebar.)

2 THE COURT: Purpose? Just background?

3 MS. KOMATIREDDY: Background, and actually
4 corroboration for later testimony, Your Honor.

5 THE COURT: Can you be more specific?

6 MS. KOMATIREDDY: Sure. This is the witness who
7 sees Genaro Garcia Luna with Arturo Beltran on the side of the
8 road. He later reports that to a person in the Congress of
9 Mexico. And although his report is not under his true name,
10 it does bear his true address and phone number, and so we were
11 putting in some of his official paperwork that also has that
12 address and phone number so we can link it up later.

13 THE COURT: What do you care?

14 MR. DE CASTRO: I don't.

15 THE COURT: Okay.

16 (End of sidebar conference.)

17 (Continued on the next page.)

18

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Zavaleta - direct - Komatireddy

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1 (In open court; jury present.)

2 THE COURT: The document is received.

3 MS. KOMATIREDDY: Thank you, Judge.

4 (Government Exhibits 713 and 713-T, were received in
5 evidence.)

6 MS. KOMATIREDDY: If we could please play it to the
7 jury and if we can zoom in, Ms. Donovan, to the top left.

8 BY MS. KOMATIREDDY:

9 Q Is that your name on the top left, Mr. Zavaleta?

10 A Yes.

11 Q What is your position?

12 A Agent Class C.

13 Q Can you name some of your responsibilities as an agent in
14 the Federal Judicial Police?

15 A Well, I can name a few. I was, in fact, an investigator.
16 I was also in charge of the general guard for the antidrug
17 trafficking institute. As an investigator, I conducted
18 several investigations of relevant matters. In the combat
19 against drug trafficking and organized crime.

20 Q Were you also involved in eradication?

21 A Yes.

22 MS. KOMATIREDDY: If I can please show the witness
23 only, Your Honor Government Exhibit 715, 716, and 717.

24 Q Mr. Zavaleta, are those three photographs fair and
25 accurate photographs of you doing your job?

Zavaleta - direct - Komatireddy

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1 A Yes.

2 MS. KOMATIREDDY: We would move 715, 716, and 717
3 into evidence.

4 MR. DE CASTRO: No objection.

5 THE COURT: Received.

6 (Government Exhibits 715, 716, and 717, were
7 received in evidence.)

8 Q Turning first to Government Exhibit 715, what does this
9 photograph depict?

10 A It is a helicopter that is suspended because we couldn't
11 land in that place where we were working eradicating crops.

12 Q Where was that photograph taken?

13 A Chihuahua.

14 Q Approximately when?

15 A In '94, 1994.

16 Q And are you in this photograph?

17 A Yes.

18 Q Where?

19 A I'm the first one that's going into the helicopter.

20 MS. KOMATIREDDY: If we can turn to 716.

21 Q What does this photograph depict?

22 A When I was eradicating marijuana.

23 Q And are you in this photograph?

24 A Yes, I'm the one that's facing forward.

25 Q Where was this photograph taken?

Zavaleta - direct - Komatireddy

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1 A Michoacan.

2 Q Approximately, when?

3 A Also 1994.

4 MS. KOMATIREDDY: If we can turn to
5 Government Exhibit 717.

6 Q What does this photograph depict?

7 A The eradication of poppy crops.

8 Q What does the relationship between poppy crops and drugs?

9 A It is what you extract from the inner core of the poppy,
10 that is the opium, the substance of the flower. From there,
11 you use that to make morphine and heroine.

12 Q Are you in this photograph?

13 A Yes, yes, I'm the one holding onto the hose.

14 Q Where was this photograph taken?

15 A Chihuahua.

16 Q Approximately, when?

17 A Also in '94.

18 Q You testified that you were also involved in the
19 investigation of various drug cartels. In that role, did you
20 become familiar with different leaders of the Sinaloa Cartel?

21 A Yes.

22 Q What are the kinds of things that you read or saw to
23 become familiar with those leaders?

24 A As an investigator of pertinent or relevant matters, I
25 had access to pictures and various types of information

Zavaleta - direct - Komatireddy

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1 regarding the leaders of drug cartels.

2 Q I'm going to show you what's in evidence as
3 Government Exhibit 6. Who is the individual in that
4 photograph?

5 A That's Barbas, Arturo Beltran Leyva.

6 Q I'm going to show you what's in evidence as
7 Government Exhibit 41. Who is the individual in that
8 photograph?

9 A Valdez Villarreal, Barbie.

10 THE COURT: How do you know who that is?

11 THE WITNESS: Well, it was precisely what I just
12 explained. I had access -- well, as part of the section of
13 relevant matters within my agency, I had access to
14 information, pictures, information about this person and other
15 people, added to the fact that I also did my own research
16 through the different media outlets so that I could be, well,
17 up-to-date.

18 THE COURT: Okay.

19 Please continue.

20 Q Did you ever personally interact with any of the leaders
21 of the Sinaloa Cartel?

22 A No.

23 Q Now, you testified that you were an agent in the Federal
24 Judicial Police. Did that agency undergo any changes in 2001?

25 A Yes.

Zavaleta - direct - Komatireddy

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1 Q What changes?

2 A It became the Federal Investigations Agency, AFI.

3 Q Who made the decision to create AFI?

4 A It was a presidential order.

5 Q Who was the first director of AFI?

6 A Mr. Genaro Garcia Luna.

7 Q I'm going to show you what's in evidence as
8 Government Exhibit 1. Who is the individual in that
9 photograph?

10 A Mr. Genaro Garcia Luna.

11 Q Now, around the year 2000, did your career change in any
12 way?

13 A Yes.

14 Q What were the changes?

15 A Well, I went from -- how do you call that, from -- from
16 the Federal Judicial Police to AFI.

17 Q Did you remain an agent at that time?

18 A Not for a time.

19 Q What happened?

20 A Well, due to political situation in my country, many
21 police officers were let go or they were asked to leave
22 illegally.

23 Q Were you one of those police officers who was let go?

24 A Yes.

25 Q Who was responsible for letting you go?

Zavaleta - direct - Komatireddy

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1 A I do not know.

2 Q Was it the defendant, Genaro Garcia Luna?

3 A No.

4 Q Did there come a time when you rejoined AFI?

5 A Yes.

6 Q Approximately, when was that?

7 A Well -- well, I was let go in August 2000 and I was
8 reincorporated by judicial order in May 2006.

9 MS. KOMATIREDDY: If I can show the witness only,
10 please Government Exhibit 711.

11 Q Do you recognize this document?

12 A Yes.

13 Q Can you tell us, generally, what kind of document is it?

14 A It's a type of contract that was internally entered into
15 with our bosses and we had to sign them for the plaza or area
16 where we were at.

17 MS. KOMATIREDDY: Ms. Donovan, if we can please zoom
18 in on the signatures on the bottom, please.

19 Q Do you see a place where it says Genaro Garcia Luna and a
20 signature above those words?

21 A Yes.

22 MS. KOMATIREDDY: The Government moves 711 and its
23 translation, 711-T into evidence.

24 MR. DE CASTRO: No objection.

25 THE COURT: Received.

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1 (Government Exhibits 711 and 711-T were received in
2 evidence.)

3 THE COURT: Ms. Komatireddy, are we at a good time
4 for a break?

5 MS. KOMATIREDDY: Yes, Your Honor.

6 THE COURT: Ladies and gentlemen, 15 minutes. Come
7 back at 3:15, please. Remember not to talk about the cause.

8 (Jury exits the courtroom.)

9 THE COURT: Let have the witness out.

10 (The witness steps down.)

11 THE COURT: Please, everyone be seated. I just want
12 to talk to the parties for a minute. I want to go back to the
13 prior witness, the law enforcement witness. What was his
14 name?

15 MR. MCMANNUS: Todd Bagetis.

16 THE COURT: Right, Mr. Bagetis. And I want to make
17 sure I understand from our sidebar what the defense was trying
18 to get at.

19 MR. DE CASTRO: I think you meant the two prior.

20 MR. PILMAR: Mr. Madrigal.

21 THE COURT: What was the name?

22 MR. PILMAR: Miguel Madrigal.

23 THE COURT: Okay.

24 MR. DE CASTRO: Sorry.

25 THE COURT: That's okay. That wasn't the witness,

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1 like I said. But is the defense's idea that they're
2 diminishing the likelihood of money being accepted by the
3 defendant if, in fact, both the DEA and the Federal Judicial
4 Police, or both, had determined that the Sinaloa Cartel was
5 not who they wanted to go after anyway; is that the idea?

6 MR. DE CASTRO: I'm not sure I'm following the
7 Court. Now we're going to --

8 THE COURT: Okay. Well, now tell me in your words
9 and I'll see if I understand you since you don't understand
10 me.

11 MR. DE CASTRO: So, the government's theory is that
12 Mr. Garcia Luna is accepting bribes and not targeting
13 particular cartels.

14 THE COURT: Right.

15 MR. DE CASTRO: And, first, we think that's just not
16 true, number one, that they were being targeted, the cartels
17 that they say were not being targeted. Putting that aside,
18 the other issue with that witness was that, well -- and we did
19 this with another witness, as well, which is that law
20 enforcement has to make priorities at times based on what is
21 happening in the public with violence and nonviolence and make
22 these kind of law enforcement decisions, and so that -- and so
23 that is part of the -- a bit of the refrain which is that none
24 of these witnesses know what priorities the President of
25 Mexico and his cabinet are making as to, for example, the

Zavaleta - direct - Komatireddy

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1 Zetas are cutting peoples heads off today, let's just focus on
2 them right now because that area needs to be safe. I think
3 that encapsulates it.

4 THE COURT: Okay. Like I said at sidebar, I have no
5 problem with you doing that as a theory. I will say I have
6 some skepticism because -- well, I won't tell you why I have
7 some skepticism, it doesn't matter, it matters what the jury
8 ultimately finds, but that guy Madrigal, he clearly was not
9 the right witness for it. So if there's something else, go
10 ahead and do that.

11 MR. DE CASTRO: And, Judge, we appreciate that and I
12 know you appreciate that sometimes we just don't know what a
13 witness know -- the 3500 might suggest oh my god, there's
14 knowledge of everything and then doesn't. And so, sometimes
15 we need to explore and realized maybe it isn't the right
16 witness.

17 THE COURT: Okay.

18 And then the other thing I wanted to say to the
19 government is really, as I've also suggested both at sidebar
20 and in open court, you've got to be done with your six
21 transactions. I mean, to the extent you're trying to
22 establish there really is a Sinaloa organization and they
23 really are doing things. Please, let's not repeat anymore of
24 the El Chapo case than we have to, okay?

25 MS. KOMATIREDDY: We're done with the violations,

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1 Your Honor.

2 THE COURT: Okay. But if there's anything else like
3 that to establish the existence of the cartel and what it
4 does, I don't think we need any more on that.

5 MS. KOMATIREDDY: Understood, Your Honor.

6 THE COURT: All right. See you in a few minutes.

7 (A recess was taken.)

8 THE COURT: Let's have the jury back, please.

9 (Jury enters the courtroom.)

10 THE COURT: Everyone be seated.

11 Please continue.

12 MS. KOMATIREDDY: Thank you, Judge.

13 BY MS. KOMATIREDDY:

14 Q Mr. Zavaleta, when we took our break, we were looking at
15 Government Exhibit 711.

16 MS. KOMATIREDDY: Ms. Donovan, if you could please
17 zoom in on the top half.

18 Q Can you describe what's depicted in this document?

19 A Yes, my RFC is on there, my name, the date where I was
20 reinstated, which was May 6, 2006, and, generally, my post as
21 agent federal police agent Class C.

22 MS. KOMATIREDDY: And if we can please zoom in on
23 the signatures at the bottom.

24 Q Above the name Genaro Garcia Luna, there's a signature;
25 do you see that?

Zavaleta - direct - Komatireddy

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1 A Yes.

2 Q And there is also a notation, PO, do you see that?

3 A Yes.

4 Q What does that mean?

5 A Well, they're differentiating they're two different
6 signatures. PO may mean by order of a superior which was
7 often used when the person was not present. And the
8 administrative coordinator would sign for that person.

9 Q So in this instance, the document reinstating you, the
10 administrative coordinator signed on behalf of the defendant
11 Genaro Garcia Luna; is that correct?

12 A Yes.

13 Q As an agent in AFI when you were reinstated in 2006, who
14 did you report to?

15 A I had bosses who were junior officers in the department
16 where I had been assigned to, which was the Department of
17 Special Operations.

18 Q Who did they report to?

19 A They reported directly to my general director.

20 Q What was his name?

21 A Javier Garza Palacios.

22 Q And who did Javier Garza Palacios report to?

23 A Directly to the chief, Mr. Genaro Garcia Luna.

24 Q As a member of his chain of command, what did you
25 understand the defendant Genaro Garcia Luna to be in charge

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1 of?

2 A Well, completely everything, he was the administrator for
3 the federal investigations agency.

4 Q What, if any, changes occurred in 2006?

5 A Yes, at the end, like, around September, October, 2006,
6 there was an attempt to illegally unify AFI with the Federal
7 Police.

8 Q Did that attempt to unify AFI with the Federal Police
9 ultimately occur?

10 A Illegally? Yes.

11 Q I think there was -- let me repeat the question. Did the
12 attempt to merge AFI and the Federal Police ultimately occur?

13 A No.

14 Q And where did the defendant, Genaro Garcia Luna, go in
15 2006?

16 A He was named Federal Secretary of Public Security.

17 Q In 2006, what were your duties in AFI?

18 A Yes, still as part of AFI, I was assigned when the
19 attempt to unified the forces illegally was happening, I was
20 assigned to the Armed Guard for the Federal Police in
21 Mexico City, for AFI. So I was guard for the Federal Police
22 in the Periferico -- in the Periferico building, and later on,
23 for the Federal Police in Constituyentes.

24 Q I'm going show you what's in evidence as
25 Government Exhibit 314. What building is this?

Zavaleta - direct - Komatireddy

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1 A That's the Federal Police building in Mexico City.

2 Q Is this the Periferico building where you stood guard?

3 A Yes.

4 Q What area of Mexico City is this building in?

5 A It is near San Jerónimo or San Angelyne.

6 Q Are there any landmarks or commercial centers nearby?

7 A Yes. You could say that near it is Perisur or the
8 hospital -- the hospital - Angeles Hospital or Numana.

9 Q For approximately what time period did you stand guard at
10 the Federal Police building in Periferico?

11 A Well, it was when the police was being -- was started to
12 be unified illegally, I was sent to that building precisely in
13 September or October 2006 until approximately March 2007.

14 Q When you were guarding this building, did you see the
15 defendant, Genaro Garcia Luna?

16 A I saw him rarely but I did see him.

17 Q How often?

18 A It was not very frequently.

19 Q Approximately, how many times?

20 A I did see him more than once or twice.

21 Q In March 2007, where were you posted?

22 A After March 2007, or starting in March 2007, I was
23 assigned to the Federal Police in Constituyentes, also in
24 Mexico City.

25 Q Did you see the defendant, Genaro Garcia Luna, at the

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1 Constituyentes building of the Federal Police of Mexico City?

2 A Yes, frequently.

3 Q When you say "frequently," what do you mean?

4 A Differently from what happened in the Periferico
5 building. In Constituyentes, due to the activities that I was
6 involved in, I saw him several times.

7 Q When you say "several times," approximately every week?

8 A Each time that I was guarding and the gentleman showed up
9 at the office.

10 Q How often would you stand guard at the building, at the
11 Federal Police building, Constituyentes?

12 A Sometimes I worked there daily and sometimes it was 24 by
13 24, 24 hours of working and 24 hours of rest.

14 Q Did you see the defendant Genaro Garcia Luna at every
15 shift?

16 A Almost all of them.

17 Q How would you know that it was him?

18 A We had radios and we were told over the frequency whether
19 he was coming in or leaving.

20 Q Where in the building would you see him?

21 A It was both in the outside area but still within the
22 complex, and I think one time I saw him at reception, I
23 believe his secretary was out to lunch.

24 Q Did you see other individuals with the defendant,
25 Genaro Garcia Luna?

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1 A Yes.

2 Q Who?

3 A At that time, for example, when I was standing guard at
4 the reception area, I saw his secretaries who, when they saw
5 me sitting there, look surprised, then they went out -- they
6 want back into Mr. Genaro's office and after that, they left
7 the area with Mr. Genaro.

8 Q You need to wait for the question. One minute.

9 What happened on that occasion?

10 A At that time when they were leaving, the three of them,
11 the two secretaries had him, I heard him say good afternoon
12 and I said good afternoon and we looked at each other, our --
13 our eyes crossed and we were kind of surprised.

14 Q Why were you surprised?

15 A Because of how much alike we look or how much alike we
16 used to look at that time.

17 Q Did you acquire any nicknames as a result of this
18 incident?

19 A Not -- not a nickname of itself but they began to call me
20 Genarito.

21 Q Did you see any other individuals, other than his
22 secretaries, with the defendant Genaro Garcia Luna as he came
23 out of the building at Constituyentes?

24 A Yes, I did see him with his subordinates.

25 Q Do you remember any of their names?

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1 A Yes, there was Cardenas Palomino --

2 Luis Cardenas Palomino, Millan Gomez, Eusebio, Ramon Pequeno,
3 Armando Mendoza De Benito -- Espinoza, I'm sorry, Espinoza,
4 meant, De Benito, our commander, I remember his last name was
5 Moreno, among others, among others of -- whose names I don't
6 exactly remember right now.

7 Q For how long were you posted in this position at the
8 Federal Police building in Constituyentes where you saw the
9 defendant Genaro Garcia Luna on a regular basis?

10 A Right up to May of 2008.

11 Q I'm going to show you what's in evidence as
12 Government Exhibit 2. Do you recognize the individual in this
13 photograph?

14 A Yes.

15 Q Who is it?

16 A That's Luis Cardenas Palomino.

17 Q I'm going to show you what's in evidence as
18 Government Exhibit 3. Do you recognize the individual in this
19 photograph?

20 A Yes.

21 Q Who is it?

22 A Ramon Paqueno.

23 Q I'm going to show you what's in evidence as
24 Government Exhibit 21. Do you recognize the individual in
25 this photograph?

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1 A Yes.

2 Q Who is it?

3 A Millan Gomez.

4 Q Do you know what happened to Millan Gomez?

5 A Yes.

6 Q What happened?

7 A He was gunned down, supposedly, where he lived.

8 Q Where were you the day he was gunned down?

9 A I was standing guard at AFI.

10 Q Did you receive any orders?

11 A Yes.

12 Q What orders did you receive?

13 A To move to the hospital where he was.

14 Q Did you go to the hospital where he was?

15 A I obeyed the order, yes.

16 Q Did you see any other high-level officials at that
17 hospital?

18 A Yes.

19 Q Who did you see?

20 A Mr. Cardenas, meaning Mr. Cardenas Palomino, Luis was
21 there.

22 Q Did you receive any orders at the hospital?

23 A Yes.

24 Q What orders?

25 A I was asked -- well, I was ordered to go in and speak to

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1 the doctor to see the medical condition of Mr. Millan Gomez.

2 Q Did you follow those orders?

3 A Yes.

4 Q What did the doctor do?

5 A She was explaining to me that it was not possible for
6 Millan Gomez to live and she pointed through a door to a
7 person who was laying in bed intubated.

8 MS. KOMATIREDDY: For the witness only, please.

9 Q I'm going to show you what's been marked as
10 Government Exhibit 612. If we could turn to the second page.

11 Can you describe, generally, what kind of document
12 this is?

13 A Yes.

14 Q What kind of document is it?

15 A It is the death certificate of Mr. Millan Gomez.

16 Q Does this document have the marks and format that are
17 consistent with death certificates from the government of
18 Mexico?

19 A I think so, yes.

20 MS. KOMATIREDDY: The Government moves 612 and its
21 translation 612-T into evidence.

22 MR. DE CASTRO: Objection, Judge.

23 THE COURT: Sustained.

24 MS. KOMATIREDDY: It's a certified document,
25 Your Honor.

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1 THE COURT: What's the relevance?

2 MS. KOMATIREDDY: Corroboration, Your Honor. May I
3 have a sidebar?

4 THE COURT: Not necessary.

5 MS. KOMATIREDDY: Okay.

6 THE COURT: You might need it on redirect but you
7 don't need it now.

8 MS. KOMATIREDDY: Yes, Your Honor.

9 Q Let me turn your attention to the day of October 19,
10 2008. Were you working that day?

11 A No.

12 Q What were you doing?

13 A Starting on the 18th of October, I was off duty.

14 Q Did you go anywhere?

15 A Yes.

16 Q Where did you go?

17 A I was in Cuatula Morelos.

18 Q What did you do the next day?

19 A I spent the night on the 18th, and the next day, I headed
20 towards Cuernavaca.

21 Q What road did you take?

22 A Leaving Cuatula, I took the highway 115-D, the toll road,
23 heading to the section where it turns on to the Tepoztlan.

24 Q What did you do at Tepoztlan?

25 A I didn't stay there. I was on my way to eating some

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1 tacos in Santa Catarina and I kept going all the way through
2 in Cuernavaca, and I continued on the toll-free road to
3 Cuernavaca.

4 Q When you were driving on the toll-free road to Cuernavaca
5 of Tepoztlan, did you see anything?

6 A Yes.

7 Q What did you see?

8 A Before I got to the intersection right where you go all
9 the way down to a hotel, I think the name is Galaicia, I saw
10 several SUVs stranded. They were on my left-hand side,
11 meaning on the opposite direction compared to where I was
12 heading to, and that is why I slowed down.

13 Q Did you see any individuals near those vehicles?

14 A Yes.

15 Q Who did you see?

16 A I saw Mr. Genaro Garcia Luna, Arturo Beltran Leyva, and
17 Edgar Valdez Villarreal, La Barbie.

18 Q What did they appear to be doing?

19 A I thought that they were talking.

20 Q Did anyone have any arms?

21 A Yes.

22 Q Who?

23 A I only saw one of them, Barbie, with a long weapon.

24 Q Was there anyone else present with the defendant,
25 Genaro Garcia Luna, Arturo Beltran Leyva, and La Barbie?

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1 A I only observed the three faces, but there were more
2 people however, not next to them. They were behind the
3 vehicles.

4 Q What did you do after you saw these individuals?

5 A Like I said, I had slowed down in my little car so I
6 could really see what was happening, and once I confirmed who
7 was there, I kept going, and then in my rear-view mirror, I
8 saw one of the vehicles turn around, so I sped up.

9 Q What happened next?

10 A So, I continued speeding and looking through my rear-view
11 mirror and I saw the vehicle kept coming, so I continued going
12 until I stopped in the section of Los Limoneros.

13 Q When you stopped, did you get out of the car?

14 A Yes.

15 Q Where did you go?

16 A I opened the hood to the engine of my car.

17 Q Were you standing in front of your car with the hood up?

18 A Yes.

19 Q From that viewpoint, what did you see?

20 A So, then I saw the two vehicles, one of them, the vehicle
21 that I thought was actually following me, and then they
22 stopped right opposite to where I was, on the other side of
23 the lane as if they were going onto AFI any that pa say
24 Los Limoneros right in that section.

25 Q Did you see who was in the vehicles?

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1 A Yes, and in fact, they also saw me because they stopped.

2 Q Who did you see in the vehicles?

3 A In the first vehicle, I couldn't see who the driver was,
4 but the copilot seat, it was Mr. Arturo Beltran Leyva. And
5 immediately behind him, behind the copilot's seat, you had
6 La Barbie, that was Valdez Villarreal, and in the other
7 vehicle, the driver was Mr. Genaro Garcia Luna.

8 MS. KOMATIREDDY: If I could show the witness only,
9 please Government Exhibit 741.

10 Q Is this a fair and accurate map of the area from
11 Tepoztlan on the east to Cuernavaca on the west?

12 A Yeah, from east to west, I can't find right here, but,
13 yeah, Santa Catarina is right here. Right here, there's a
14 *restaurant, it's called Costenita, I think it's still there.
15 And at the intersection going on the road from west to east --
16 from east to west, as you described it, from there, you go
17 down to the hotel, Galaicia, and that's where I observed the
18 three people I already mentioned.

19 MS. KOMATIREDDY: I'm going to kindly approach,
20 Your Honor, and provide a paper copy of the map.

21 THE COURT: Yes.

22 Q And I'm also going to hand you what's been marked as
23 Government Exhibits 709 726, and 727.

24 (Continued on the following page.)

25

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1 DIRECT EXAMINATION (Continuing)

2 BY MS. KOMATIREDDY:

3 Q First, Mr. Zavaleta, just generally, are 741, 726, 727
4 maps of the areas that we've been discussing?

5 A The first one, yes. That was 741.

6 And 726 and 727 are from the time when I had already
7 stopped and I had seen the vehicles going in and that's when
8 the people in the vehicles also saw me.

9 MS. KOMATIREDDY: The Government's 741, 726 and 727
10 into evidence.

11 MR. DE CASTRO: No objection.

12 THE COURT: Received.

13 (Government's Exhibits 741, 726 and 727 received in
14 evidence.)

15 MS. KOMATIREDDY: If we can please put 741 on the
16 screen for the jury. If we can please clear the screen, Your
17 Honor. Thank you.

18 Q Zooming in on the right side, do you see Tepoztlán?

19 A Yes.

20 Q That's where you turned on to this road and went west
21 towards Cuernavaca; right?

22 A Yes.

23 Q And there's a blue circle near La Costeñita Parrilladas.
24 Do you see that?

25 A Yes.

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1 Q Is that approximately the area where you saw defendant
2 with Arturo Beltran Leyva and La Barbie?

3 A Yes, that's the approximate location.

4 MS. KOMATIREDDY: If we could go to the west on the
5 map.

6 Q You testified that you kept driving and stopped your car
7 at a certain point.

8 MS. KOMATIREDDY: If you could go west further to
9 the circle marked two.

10 Q Is that approximately the area where you stopped your car
11 and popped the hood?

12 A If you're referring to these other documents as number
13 726 and 727, and they are related, yes.

14 MS. KOMATIREDDY: Let's turn to 726. If we can zoom
15 in in the area indicated by the blue arrow.

16 Q Can you please describe for the jury what the blue arrow
17 is pointing to?

18 A Yes. That's the Avenida Paseo de los Naranjos in the
19 section of Los Naranjos. There is a security checking post
20 right there, a private one, and that's the intersection
21 exactly where you decide whether to go to Cuernavaca or
22 Tepoztlán.

23 Q Is that approximately where you stopped your car and
24 popped the hood?

25 A Right in front of that intersection, in front.

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1 Q When you were standing there, what did you see the
2 defendant, Genaro Garcia Luna, Arturo Beltran Leyva and La
3 Barbie do?

4 A Well, they were staring at me and I got freaked out, so I
5 got back in my car and I headed out.

6 Q What did they do?

7 MR. DE CASTRO: Objection. We've been through this
8 already.

9 THE COURT: Overruled.

10 A Before I left, they moved on. I was, you know, I was
11 shaking, but they went into Avenida Paseo de los Naranjos.

12 MS. KOMATIREDDY: If we can turn Government Exhibit
13 727.

14 Q Could you describe for the jury what we are looking at in
15 this map?

16 A Yes, it's the same intersection with the exception that I
17 was parked where there's the truck that is facing the opposite
18 way in an orange color pointing towards Cuernavaca.

19 Q And is that the subdivision where you saw the defendant
20 Genaro Garcia Luna, Arturo Beltran Leyva and La Barbie turn
21 into?

22 A Yes. They turned left, towards their left on Paseo de
23 los Naranjos.

24 Q When you saw those individuals, what kind of cars were
25 they?

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1 A I don't remember the colors, but they were Suburbans.

2 Q After this incident, did you speak with anyone else about
3 what you saw?

4 A Yes.

5 Q Who?

6 A With a colleague of mine at work. His name was Oscar
7 Granados Salero.

8 Q Did you report what you saw to any authorities?

9 A Yes.

10 Q Who?

11 A To the Union Congress.

12 Q Who in the Union Congress?

13 A Directly to attorney Layda Sansores San Román.

14 Q Approximately when did you report this incident?

15 A Approximately on November 7, 2008.

16 Q Did you submit anything to Ms. Sansores?

17 A Yes.

18 Q What did you submit?

19 A I submitted one document that I had prepared for the
20 Congress, the Union Congress detailing the weapons, both short
21 and long guns with the serial numbers and whose name they were
22 under, as well as a second document, a different document that
23 I wrote in her own computer.

24 Q The letter that you submitted, that you had prepared, did
25 you put your own personal -- I'm sorry. Let me rephrase.

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1 With respect to the letter that you submitted and
2 prepared for Ms. Sansores, did you submit that letter in your
3 own name?

4 A Not my own name.

5 Q Whose name was it?

6 A It was under my colleague's name, Oscar Granados Salero.

7 Q Did you put any of your own personal information in that
8 letter?

9 A Completely. I had my personal residence, my home
10 telephone, and my cell phone number.

11 Q Were there any changes that you made to the letter with
12 respect to your identity before submitting it to?

13 A No.

14 Q In the letter, did you identify yourself as having
15 personally witnessed the event?

16 A I did not include it in the letter, but I did explain it
17 to Layda Sansores.

18 Q Why did you submit a letter under someone else's name?

19 A Because my colleague and I decided that we want -- we
20 would run the same risks, so I used his name and my personal
21 information, including my address, my phone number, and my
22 cell phone number.

23 Q Do you still have a digital copy of the letter that you
24 submitted that day?

25 A Yes.

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1 Q And before testifying in court today, did you provide
2 that digital copy to an investigator named Enrique Santos?

3 A Yes.

4 Q In your meeting with Ms. Sansores, did Ms. Sansores ask
5 you to do anything?

6 A Yes.

7 Q What did she ask you to do?

8 A First, she suggested that I submit this anonymously.
9 Secondly, she asked for my authorization to call a person from
10 Proceso magazine to publish this.

11 Q Did you give your authorization?

12 A Yes.

13 Q And did you ultimately provide a copy of the letter to
14 Proceso Magazine?

15 A To the journalist who came to me. This was the first
16 letter which was directed to the Union Congress.

17 Q Were there subsequently attempts to remove you from the
18 police force?

19 A Not through exams.

20 Q How then?

21 A I was accused of being involved in several organized
22 crimes, organized crimes, drug trafficking, releasing inmates,
23 about six crimes, all of them serious.

24 Q Were you arrested?

25 A Yes.

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1 Q Were you detained?

2 A I was detained by my superiors. I was sent to what was
3 at that time called Sierro. I was held for eight at this days
4 and I was presented to a criminal point in point Grande
5 Jalisco.

6 Q Where were you held?

7 A It was at Contel, the federal police.

8 Q What ultimately happened to the charges against you?

9 A I was completely and fully absolved.

10 Q Did you resign from the federal police?

11 A On November at the end of last year, up to November 10th
12 of last year.

13 Q Señor Zavaleta, why, in your letter, did you make the
14 letter anonymous and not say that you had personally witnessed
15 the event?

16 MR. DE CASTRO: Objection. Asked and answered.

17 THE COURT: I agree.

18 Q For approximately how long did you serve as a federal
19 police officer in the Mexican police?

20 A Almost 30 years.

21 MS. KOMATIREDDY: No further questions, Your Honor.

22 THE COURT: All right. Ladies and gentlemen, we
23 will break a little early today. We have another long weekend
24 in front of us, so please remember the admonitions.

25 There will be some publicity out there on the

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1 internet, but you must stay away from all of it. Please don't
2 communicate about the case.

3 Get some rest, have some fun, and we will see you
4 back here Monday morning at 9:30.

5 (Jury exits the courtroom.)

6 THE COURT: Okay. Let's have the witness off the
7 stand.

8 (Witness leave stand.)

9 THE COURT: Everyone be seated.

10 Did you have something, Ms. Komatireddy?

11 MS. KOMATIREDDY: Yes, Your Honor. I just want to
12 proffer the relevance of the death certificate, 612, it's
13 actually not to corroborate this witness but to corroborate
14 our first witness, El Grande, Sergio Villarreal Barragan, he
15 described in detail that Mr. Millan died of gunshot wounds and
16 the certified death certificate that we obtained from Mexico
17 confirms that.

18 MR. DE CASTRO: Well, first of all, it's not even an
19 issue.

20 THE COURT: Well, it's practically a stipulation.
21 There is no question the man died, right?

22 MR. DE CASTRO: Correct. I've even crossed on it.

23 THE COURT: Right, but the Government wants to be
24 able to not have to do more proof than show the death
25 certificate.

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1 MR. DE CASTRO: I think they want to do that to show
2 that they can corroborate.

3 THE COURT: Yes, that's right. The corroboration is
4 of their witness who is an important witness, let's put it
5 that way.

6 Okay. I will admit the document. What is the
7 number?

8 MS. KOMATIREDDY: 612, and the translation is 612-T.
9 And we don't need to publish it to the jury, Your Honor.
10 We'll just save it for closing. Thank you.

11 (Government's Exhibit 612 received in evidence.)

12 THE COURT: Okay. Have a good weekend everyone --

13 MR. DE CASTRO: Just to confirm the witness -- the
14 prosecution is done with the witness so they are not going to
15 be meeting with the witness?

16 THE COURT: They have passed the witness, yes.

17 MS. KOMATIREDDY: Yes, Your Honor.

18 MR. DE CASTRO: Okay.

19 THE COURT: Great. See you Monday.

20 (Matter adjourned to February 6, 2023 at 9:30 a.m.)

21

22 ooo0ooo

23

24

25

I N D E XWITNESSPAGE**HAROLD MAURICIO POVEDA-ORTEGA**

CROSS-EXAMINATION BY MR. DE CASTRO 896

REDIRECT EXAMINATION BY MR. PILMAR: 922

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DIRECT EXAMINATION BY MS. REID 932

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TODD BAGETIS

DIRECT EXAMINATION BY MR. AMIR 1016

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